

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 244\*

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Short Title: Unclaimed Property Act/AB.

(Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA UNCLAIMED PROPERTY ACT  
AND TO MAKE CONFORMING AMENDMENTS TO THE GENERAL  
STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES  
COMMISSION, AND TO MAKE OTHER CHANGES TO THE ESCHEATS  
LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116B-4 reads as rewritten:

**"§ 116B-4. Claim for escheated property.**

Any escheated property or proceeds from the sale of escheated property held by the  
Escheat Fund pursuant to ~~G.S. 116B-27~~ G.S. 116B-5 may be claimed by an heir of the  
decedent or by a creditor of the decedent who is not barred from presenting a claim under  
the provisions of Article 19 of ~~Chapter 28A~~ Chapter 28A of the General Statutes. ~~The~~  
~~claim shall be made on a form prescribed by the Treasurer and shall be presented to the~~  
~~Treasurer. If the Treasurer determines that the claimant is entitled to all or a portion of the~~  
~~escheated property or the proceeds from its sale, he shall make payment of the claim or return of~~

1 the property. The claimant shall agree to indemnify the State, the State Treasurer and the Escheat  
2 Fund from any claim arising out of or in connection with refund of the property claimed. The  
3 provisions of ~~G.S. 116B-38(b)~~ and ~~(e)~~ G.S. 116B-67(a), (c), (d), and (e) and G.S.  
4 116B-68 shall apply to a claim under this ~~subsection.~~ section."

5 Section 2. Article 2 of Chapter 116B of the General Statutes is repealed.

6 Section 3.(a) Except as provided in subsection (b) of this section, Article 3 of  
7 Chapter 116B of the General Statutes is repealed.

8 Section 3.(b) G.S. 116B-27 is recodified as G.S. 116B-5 within Article 1 of  
9 Chapter 116B of the General Statutes. G.S. 116B-36 is recodified as G.S. 116B-6 within  
10 Article 1 of Chapter 116B of the General Statutes. G.S. 116B-37 is recodified as G.S.  
11 116B-7 within Article 1 of Chapter 116B of the General Statutes. G.S. 116B-47 is  
12 recodified as G.S. 116B-8 within Article 1 of Chapter 116B of the General Statutes.

13 Section 4.(a) G.S. 116B-6(b), as recodified by subsection (b) of Section 3 of this  
14 act, reads as rewritten:

15 "(b) Investment and Transfer of Assets; Income. – The Treasurer ~~shall be~~ is the  
16 trustee of the Escheat Account and ~~shall have~~ has full power to invest and reinvest the  
17 assets of the Escheat Account and the Escheat Fund. Subject to the Treasurer's  
18 withholding an amount necessary to accomplish ~~his~~ the Treasurer's duties as set out in  
19 this Chapter, including subsections (e), (f) and (g) of this section, the Treasurer shall  
20 transfer, at least annually, to the Escheat Account all moneys then in ~~his~~ the Treasurer's  
21 custody received as, or derived from the disposition of, escheated and abandoned  
22 property and shall disburse to the State Education Assistance Authority, as provided in  
23 ~~G.S. 116B-37,~~ G.S. 116B-7, the income derived from the investment of the Escheat  
24 Account and the Escheat Fund. All moneys transferred to the Escheat Account under this  
25 section shall be accounted for and administered separately from other assets and money  
26 in the trust fund created under G.S. 116-209."

27 Section 4.(b) G.S. 116B-6(h) as recodified by subsection (b) of Section 3 of this  
28 act, reads as rewritten:

29 "(h) Expenditures. – The Treasurer may expend the funds in the Escheat Fund,  
30 other than funds in the Escheat Account, for the payment of claims for refunds to owners,  
31 holders and claimants under G.S. 116B-4; for the payment of costs of maintenance and  
32 upkeep of abandoned or escheated property; costs of preparing lists of names of owners  
33 of abandoned property to be furnished to clerks of superior court; costs of notice and  
34 publication; costs of appraisals; fees of persons employed pursuant to ~~G.S. 116B-47;~~ G.S.  
35 116B-8 costs involved in determining whether a decedent died without heirs; costs of a  
36 title search of real property that has escheated; and costs of auction or sale under this  
37 Chapter. All other costs, including salaries of personnel, necessary to carry out the duties  
38 of the Treasurer under this Chapter, shall be appropriated from the funds of the Escheat  
39 Fund pursuant to the provisions of Article 1, Chapter 143 of the General Statutes."

40 Section 5. G.S. 116B-8, as recodified by subsection (b) of Section 3 of this act,  
41 reads as rewritten:

42 "**§ 116B-8. Employment of persons with specialized skills or knowledge.**

1 The Treasurer may employ the services of such independent consultants, real estate  
2 managers and other persons possessing specialized skills or knowledge as ~~he shall deem~~  
3 the Treasurer deems necessary or appropriate for the administration of this Chapter,  
4 ~~including, but specifically not limited to,~~ including valuation, maintenance, upkeep,  
5 management, sale and conveyance of property and determination of sources of  
6 unreported abandoned property. The Treasurer may also employ the services of an  
7 attorney to perform a title search or to provide an accurate legal description of real  
8 property which ~~he~~ the Treasurer has reason to believe may have escheated. Persons  
9 whose services are employed by the Treasurer pursuant to this section to determine  
10 sources and amounts of unreported property are subject to the same policies, including  
11 confidentiality and ethics, as employees of the Department of State Treasurer assigned to  
12 determine sources and amounts of unreported property. Compensation of persons whose  
13 services are employed pursuant to this section on a contingent fee basis shall be limited to  
14 ten percent (10%) of the final assessment."

15 Section 6. Chapter 116B of the General Statutes is amended by adding the  
16 following new article to read:

17 **"ARTICLE 4.**

18 **"NORTH CAROLINA UNCLAIMED PROPERTY ACT.**

19 **"§ 116B-51. Short title.**

20 This Article may be cited as the 'North Carolina Unclaimed Property Act.'

21 **"§ 116B-52. Definitions.**

22 In this Chapter:

- 23 (1) 'Apparent owner' means a person whose name appears on the records of  
24 a holder as the person entitled to property held, issued, or owing by the  
25 holder.
- 26 (2) 'Business association' means a corporation, joint stock company,  
27 investment company, partnership, unincorporated association, joint  
28 venture, limited liability company, business trust, trust company, land  
29 bank, safe deposit company, safekeeping depository, financial  
30 organization, insurance company, mutual fund, utility, or other business  
31 entity consisting of one or more persons, whether or not for profit.
- 32 (3) 'Domicile' means the state of incorporation of a corporation and the state  
33 of the principal place of business of a holder other than a corporation.
- 34 (4) 'Financial organization' means a savings and loan association, building  
35 and loan association, savings bank, industrial bank, bank, banking  
36 organization, or credit union.
- 37 (5) 'Holder' means a person obligated to hold for the account of or deliver  
38 or pay to the owner property that is subject to this Chapter.
- 39 (6) 'Insurance company' means an association, corporation, or fraternal or  
40 mutual benefit organization, whether or not for profit, engaged in the  
41 business of providing life endowments, annuities, or insurance,  
42 including accident, burial, casualty, credit life, contract performance,  
43 dental, disability, fidelity, fire, health, hospitalization, illness, life,

- 1                    malpractice, marine, mortgage, surety, wage protection, and workers'  
2                    compensation insurance.
- 3            (7)        'Mineral' means gas, oil, coal, other gaseous, liquid, and solid  
4                    hydrocarbons, oil shale, cement material, sand and gravel, road material,  
5                    building stone, chemical raw material, gemstone, fissionable and  
6                    nonfissionable ores, colloidal and other clay, steam and other  
7                    geothermal resource, or any other substance defined as a mineral by the  
8                    law of this State.
- 9            (8)        'Mineral proceeds' means amounts payable for the extraction,  
10                    production, or sale of minerals, or, upon the abandonment of those  
11                    payments, all payments that become payable thereafter. The term  
12                    includes amounts payable:
- 13                    a.        For the acquisition and retention of a mineral lease, including  
14                    bonuses, royalties, compensatory royalties, shut-in royalties,  
15                    minimum royalties, and delay rentals;
- 16                    b.        For the extraction, production, or sale of minerals, including net  
17                    revenue interests, royalties, overriding royalties, extraction  
18                    payments, and production payments; and
- 19                    c.        Under an agreement or option, including a joint operating  
20                    agreement, unit agreement, pooling agreement, and farm-out  
21                    agreement.
- 22            (9)        'Owner' means a person who has a legal or equitable interest in property  
23                    subject to this Chapter or the person's legal representative. The term  
24                    includes a depositor in the case of a deposit, a beneficiary in the case of  
25                    a trust other than a deposit in trust, and a creditor, claimant, or payee in  
26                    the case of other property.
- 27            (10)        'Person' means an individual, business association, financial  
28                    organization, estate, trust, government, governmental subdivision,  
29                    agency, or instrumentality, or any other legal or commercial entity.
- 30            (11)        'Property' means tangible personal property physically located within  
31                    this State or a fixed and certain interest in intangible property that is  
32                    held, issued, or owed in the course of a holder's business, or by a  
33                    government, governmental subdivision, agency, or instrumentality, and  
34                    all income or increments therefrom. The term includes property that is  
35                    referred to as or evidenced by:
- 36                    a.        Money, a check, draft, deposit, interest, or dividend;
- 37                    b.        Credit balance, customer's overpayment, gift certificate, security  
38                    deposit, refund, credit memorandum, unpaid wage, unused ticket,  
39                    mineral proceeds, or unidentified remittance;
- 40                    c.        Stock or other evidence of ownership of an interest in a business  
41                    association;
- 42                    d.        A bond, debenture, note, or other evidence of indebtedness;

- 1 e. Money deposited to redeem stocks, bonds, coupons, or other  
2 securities, or to make distributions;  
3 f. An amount due and payable under the terms of an annuity or  
4 insurance policy, including policies providing life insurance,  
5 property and casualty insurance, workers' compensation  
6 insurance, or health and disability insurance; and  
7 g. An amount distributable from a trust or custodial fund  
8 established under a plan to provide health, welfare, pension,  
9 vacation, severance, retirement, death, stock purchase, profit  
10 sharing, employee savings, supplemental unemployment  
11 insurance, or similar benefits.

12 (12) 'Record' means information that is inscribed on a tangible medium or  
13 that is stored in an electronic or other medium and is retrievable in  
14 perceivable form.

15 (13) 'State' means a state of the United States, the District of Columbia, the  
16 Commonwealth of Puerto Rico, or any territory or insular possession  
17 subject to the jurisdiction of the United States.

18 (14) 'Treasurer' means the Treasurer of the State of North Carolina or the  
19 Treasurer's designated agent.

20 (15) 'Utility' means a person who owns or operates for public use any plant,  
21 equipment, real property, franchise, or license for the transportation of  
22 the public, the transmission of communications, or the production,  
23 storage, transmission, sale, delivery, or furnishing of electricity, water,  
24 steam, or gas.

25 **"§ 116B-53. Presumptions of abandonment.**

26 (a) Property is unclaimed if the apparent owner has not communicated in writing  
27 or by other means reflected in a contemporaneous record prepared by or on behalf of the  
28 holder, with the holder concerning the property or the account in which the property is  
29 held, and has not otherwise indicated an interest in the property. A communication with  
30 an owner by a person (other than the holder or its representative) who has not, in writing,  
31 identified the property to the owner is not an indication of interest in the property by the  
32 owner.

33 (b) An indication of an interest in property includes:

34 (1) The presentment of a check or other instrument of payment of a  
35 dividend or other distribution made with respect to an account or  
36 underlying stock or other interest in a business association or, in the  
37 case of a distribution made by electronic or similar means, evidence that  
38 the distribution has been received;

39 (2) The presentment of a check or other instrument of payment of interest  
40 made with respect to debt of a business association or, in the case of an  
41 interest payment made by electronic or similar means, evidence that the  
42 interest payment has been received;

- 1           (3) Owner-directed activity in the account in which the property is held,  
2 including a direction by the owner to increase, decrease, or change the  
3 amount or type of property held in the account;
- 4           (4) The making of a deposit to or withdrawal from an account in a financial  
5 organization;
- 6           (5) Owner activity in another account with the holder of a deposit described  
7 in subdivisions (c)(2) and (c)(6) of this section; and
- 8           (6) The payment of a premium with respect to a property interest in an  
9 insurance policy; but the application of an automatic premium loan  
10 provision or other nonforfeiture provision contained in an insurance  
11 policy does not prevent a policy from maturing or terminating if the  
12 insured has died or the insured or the beneficiary of the policy has  
13 otherwise become entitled to the proceeds before the depletion of the  
14 cash surrender value of a policy by the application of those provisions.
- 15       (c) Property is presumed abandoned if it is unclaimed by the apparent owner  
16 during the time set forth below for the particular property:
- 17           (1) Traveler's check, 15 years after issuance;
- 18           (2) Time deposit, including a deposit that is automatically renewable, 10  
19 years after the later of initial maturity or the date of the last indication  
20 by the owner of interest in the property;
- 21           (3) Money order, cashier's check, teller's check, and certified check, seven  
22 years after issuance;
- 23           (4) Stock or other equity interest in a business association, including a  
24 security entitlement under Article 8 of the Uniform Commercial Code,  
25 Chapter 25 of the General Statutes, five years after the earlier of:
- 26               a. The date of a cash dividend or other cash distribution unclaimed  
27 by the apparent owner, or
- 28               b. The date of the second mailing of a stock certificate or other  
29 evidence of ownership, a statement of account, or other  
30 notification or communication which second mailing was  
31 returned as undeliverable or the date the holder discontinued  
32 mailings, notifications, or communications to the apparent  
33 owner;
- 34           (5) Debt of a business association, other than a bearer bond or an original  
35 issue discount bond, five years after the date of an interest payment  
36 unclaimed by the apparent owner;
- 37           (6) Demand or savings deposit, five years after the date of the last  
38 indication by the owner of interest in the property;
- 39           (7) Money or credits owed to a customer as a result of a retail business  
40 transaction, three years after the obligation accrued;
- 41           (8) Any gift certificate or electronic gift card bearing an expiration date and  
42 remaining unredeemed or dormant for more than three years after the  
43 gift certificate or electronic gift card was sold is deemed abandoned.

1           The amount abandoned is deemed to be sixty percent (60%) of the  
2           unredeemed portion of the face value of the gift certificate or the  
3           electronic gift card;

4           (9) Amount owed by an insurer on a life or endowment insurance policy or  
5           an annuity that has matured or terminated, three years after the  
6           obligation to pay arose or, in the case of a policy or annuity payable  
7           upon proof of death, three years after the insured has attained, or would  
8           have attained if living, the limiting age under the mortality table on  
9           which the reserve is based;

10          (10) Property distributable by a business association in a course of  
11          dissolution, one year after the property becomes distributable;

12          (11) Property received by a court as proceeds of a class action, and not  
13          distributed pursuant to the judgment, one year after the distribution date;

14          (12) Property held by a court, government, governmental subdivision,  
15          agency, or instrumentality, one year after the property becomes  
16          distributable;

17          (13) Wages or other compensation for personal services, two years after the  
18          compensation becomes payable;

19          (14) Deposit or refund owed to a subscriber by a utility, one year after the  
20          deposit or refund becomes payable;

21          (15) Property in an individual retirement account, defined benefit plan, or  
22          other account or plan that is qualified for tax deferral under the income  
23          tax laws of the United States, three years after the earliest of the date of  
24          the distribution or attempted distribution of the property, the date of the  
25          required distribution as stated in the plan or trust agreement governing  
26          the plan, or the date, if determinable by the holder, specified in the  
27          income tax laws of the United States by which distribution of the  
28          property must begin in order to avoid a tax penalty; and

29          (16) All other property, five years after the owner's right to demand the  
30          property or after the obligation to pay or distribute the property arises,  
31          whichever first occurs.

32          (d) At the time that an interest in property is presumed abandoned under  
33          subsection (c) of this section, any other property right accrued or accruing to the owner as  
34          a result of the interest, and not previously presumed abandoned, is also presumed  
35          abandoned.

36          (e) Property is payable or distributable for purposes of this Chapter  
37          notwithstanding the owner's failure to make demand or present an instrument or  
38          document otherwise required to obtain payment or distribution.

39          "**§ 116B-54. Exclusion for forfeited reservation deposits, certain gift certificates or**  
40          **electronic gift cards, prepaid calling cards, certain manufactured home**  
41          **buyer deposits, and certain credit balances.**

42          (a) A forfeited reservation deposit is not abandoned property. For the purposes of  
43          this section, the term 'reservation deposit' means an amount of money paid to a business

1 association to guarantee that the business association holds a specific service, such as a  
2 room accommodation at a hotel, seating at a restaurant, or an appointment with a doctor,  
3 for a specified date and place. The term 'reservation deposit' does not include an  
4 application fee, a utility deposit, or a deposit made toward the purchase of real property.

5 (b) A gift certificate or electronic gift card is not abandoned property when the gift  
6 certificate or electronic gift card:

7 (1) Conspicuously states that the gift certificate or electronic gift card does  
8 not expire;

9 (2) Bears no expiration date; or

10 (3) States that a date of expiration printed on the gift certificate or  
11 electronic gift card is not applicable in North Carolina.

12 (c) A prepaid calling card issued by a public utility as defined in G.S. 62-3(23)a.6.  
13 is not abandoned property.

14 (d) A buyer deposit that a dealer is authorized to retain under either G.S. 143-  
15 143.21A or G.S. 143-143.21B is not abandoned property and is not subject to this Article.

16 (e) Credit balances as shown on the records of a business association to or for the  
17 benefit of another business association, shall not constitute abandoned property. For  
18 purposes of this section, the term 'credit balances' means items such as overpayments or  
19 underpayments on the sale of goods or services.

20 **"§ 116B-55. Contents of safe deposit box or other safekeeping depository.**

21 Contents of a safe deposit box or other safekeeping depository held by a financial  
22 organization is presumed abandoned if the apparent owner has not claimed the property  
23 within the period established by G.S. 53-43.7 and shall be delivered to the Treasurer as  
24 provided by that section. If the contents include property described in G.S. 116B-53, the  
25 Treasurer shall hold the property for the remainder of the applicable period set forth in  
26 that section before the property is deemed to be received for purpose of sale under G.S.  
27 116B-65.

28 **"§ 116B-56. Rules for taking custody.**

29 (a) Except as otherwise provided in this Chapter or by other statute of this State,  
30 property that is presumed abandoned, whether located in this or another state, is subject  
31 to the custody of this State if:

32 (1) The last known address of the apparent owner, as shown on the records  
33 of the holder, is in this State;

34 (2) The records of the holder do not reflect the identity of the person  
35 entitled to the property, and it is established that the last known address  
36 of the person entitled to the property is in this State;

37 (3) The records of the holder do not reflect the last known address of the  
38 apparent owner and it is established that:

39 a. The last known address of the person entitled to the property is in  
40 this State; or

41 b. The holder is domiciled in this State or is a government or  
42 governmental subdivision, agency, or instrumentality of this  
43 State and has not previously paid or delivered the property to the



1 state of the last known address of the apparent owner or other  
2 person entitled to the property;

3 (4) The last known address of the apparent owner, as shown on the records  
4 of the holder, is in a state that does not provide for the escheat or  
5 custodial taking of the property, and the holder is domiciled in this  
6 State or is a government or governmental subdivision, agency, or  
7 instrumentality of this State;

8 (5) The last known address of the apparent owner, as shown on the records  
9 of the holder, is in a foreign country, and the holder is domiciled in this  
10 State or is a government or governmental subdivision, agency, or  
11 instrumentality of this State; or

12 (6) The property is a traveler's check or money order purchased in this State  
13 or the issuer of the traveler's check or money order has its principal  
14 place of business in this State and the issuer's records show that the  
15 instrument was purchased in a state that does not provide for the escheat  
16 or custodial taking of the property or do not show the state in which the  
17 instrument was purchased.

18 (b) In the case of an amount payable under the terms of an annuity or insurance  
19 policy, the last known address of the person entitled to the property is presumed to be the  
20 same as the last known address of the insured or the principal, as shown on the records of  
21 the insurance company, if:

22 (1) A person other than the insured or the principal is entitled to the  
23 property; and

24 (2) Either:

25 a. No address of the person is known to the insurance company; or

26 b. The records of the insurance company do not reflect the identity  
27 of the person.

28 **"§ 116B-57. Dormancy charge; other lawful charges.**

29 (a) A holder may deduct from property presumed abandoned a reasonable charge  
30 imposed by reason of the owner's failure to claim the property within a specified time  
31 only if there is a valid and enforceable written contract between the holder and the owner  
32 under which the holder may impose the charge and the holder regularly imposes the  
33 charge, which is not regularly reversed or otherwise canceled.

34 (b) This Chapter does not prevent a holder from deducting from property  
35 presumed abandoned other lawful charges specifically authorized by statute or by a valid  
36 and enforceable contract.

37 **"§ 116B-58. Burden of proof as to property evidenced by record of check or draft.**

38 A record of the issuance of a check, draft, or similar instrument is prima facie  
39 evidence of an obligation. In claiming property from a holder who is also the issuer, the  
40 Treasurer's burden of proof as to the existence and amount of the property and its  
41 abandonment is satisfied by showing issuance of the instrument and passage of the  
42 requisite period of abandonment. Defenses of payment, satisfaction, discharge, and want  
43 of consideration are affirmative defenses that must be established by the holder.

**"§ 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.

(b) 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 G.S. 116B-60, to the last known address of the apparent owner as reflected in the holder's records, if the value of the property is fifty dollars (\$50.00) or more.

(c) The notice must contain:

(1) A statement that, according to the records of the holder, property is being held to which the addressee appears entitled and the amount or description of the property;

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder;

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

**"§ 116B-60. Report of abandoned property; certification by holders with tax return.**

(a) A holder of property presumed abandoned shall make a report to the Treasurer concerning the property.

(b) The report must be verified and must contain:

(1) A description of the property;

(2) Except with respect to a traveler's check or money order, the name, if known, and last known address, if any, and the social security number or taxpayer identification number, if readily ascertainable, of the apparent owner of property of the value of fifty dollars (\$50.00) or more;

(3) An aggregated amount of items valued under fifty dollars (\$50.00) each;

(4) In the case of an amount of fifty dollars (\$50.00) or more held or owing under an annuity or a life or endowment insurance policy, the full name and last known address of the annuitant or insured and of the beneficiary;

(5) The date, if any, on which the property became payable, demandable, or returnable, and the date of the last transaction or communication with the apparent owner with respect to the property; and

(6) Other information that the Treasurer by rule prescribes as necessary for the administration of this Chapter.

(c) If a holder of property presumed abandoned is a successor to another person who previously held the property for the apparent owner or the holder has changed its name while holding the property, the holder shall file with the report its former names, if any, and the known names and addresses of all previous holders of the property.

1       (d) The report must be filed before November 1 of each year and cover the 12  
2 months next preceding July 1 of that year, but a report with respect to a life insurance  
3 company must be filed before May 1 of each year for the calendar year next preceding.

4       (e) Before the date for filing the report, the holder of property presumed  
5 abandoned may request the Treasurer to extend the time for filing the report. A request  
6 for an extension for filing a report shall be accompanied by an extension processing fee  
7 of ten dollars (\$10.00). The Treasurer may grant the extension for good cause. The  
8 holder, upon receipt of the extension, may make an interim payment on the amount the  
9 holder estimates will ultimately be due, which terminates the accrual of additional  
10 interest on the amount paid.

11       (f) The holder of property presumed abandoned shall file with the report an  
12 affidavit stating that the holder has complied with G.S. 116B-59.

13       (g) Every business association holding property presumed abandoned under this  
14 Chapter shall certify the holding in the income tax return required by Chapter 105 of the  
15 General Statutes. The certification shall be a part of the tax return with which it is filed.  
16 If the business association is not required to file an income tax return under Chapter 105,  
17 the certification shall be made in the form and manner required by the Secretary of  
18 Revenue. The information appearing on the certification is not privileged or confidential,  
19 and this information shall be furnished by the Secretary of Revenue to the Escheat Fund  
20 on October 1 of each year, or if this date shall fall on a weekend or holiday, on the next  
21 regular business day.

22 **"§ 116B-61. Payment or delivery of abandoned property.**

23       (a) Upon filing the report required by G.S. 116B-60, the holder of property  
24 presumed abandoned shall pay, deliver, or cause to be paid or delivered to the Treasurer  
25 the property described in the report, but if the property is an automatically renewable  
26 deposit, and a penalty or forfeiture in the payment of interest would result, the time for  
27 compliance is extended to the next filing and delivery date at which a penalty or  
28 forfeiture would no longer result.

29       (b) If the property reported to the Treasurer is a security or security entitlement  
30 under Article 8 of Chapter 25 of the General Statutes, the Treasurer is an appropriate  
31 person to make an indorsement, instruction, or entitlement order on behalf of the apparent  
32 owner to invoke the duty of the issuer or its transfer agent or the securities intermediary  
33 to transfer or dispose of the security or the security entitlement in accordance with Article  
34 8 of Chapter 25 of the General Statutes.

35       (c) If the holder of property reported to the Treasurer is the issuer of a certificated  
36 security, the Treasurer has the right to obtain a replacement certificate pursuant to G.S.  
37 25-8-405, but an indemnity bond is not required.

38       (d) An issuer, the holder, and any transfer agent or other person acting pursuant to  
39 the instructions of and on behalf of the issuer or holder in accordance with this section is  
40 not liable to the apparent owner and must be indemnified against claims of any person in  
41 accordance with G.S. 116B-63.

42 **"§ 116B-62. Preparation of list of owners by Treasurer.**

1       (a) There shall be delivered to the clerk of superior court of each county prior to  
2 June 30 of each year a list prepared by the Treasurer of escheated and abandoned  
3 property reported to the Treasurer. The list shall contain:

4           (1) The names, if known, in alphabetical order of surname, and last known  
5 addresses, if any, of apparent owners of escheated and abandoned  
6 property;

7           (2) The names and addresses of the holders of the abandoned property; and

8           (3) A statement that claim and proof of legal entitlement to escheated or  
9 abandoned property shall be presented by the owner to the Treasurer,  
10 which statement shall set forth where further information may be  
11 obtained.

12       (b) At the time the lists are distributed to the clerks of superior court, the Treasurer  
13 shall cause to be published once each week for two consecutive weeks, in at least two  
14 newspapers having general circulation in this State, a notice stating the nature of the lists  
15 and that the lists are available for inspection at the offices of the respective clerks of  
16 superior court, together with any other information the Treasurer deems appropriate to  
17 appear in the notice.

18       (c) The Treasurer is not required to include in any list any item of a value, as  
19 determined by the Treasurer, in the Treasurer's discretion, of less than fifty dollars  
20 (\$50.00), unless the Treasurer deems inclusion of items of lesser amounts to be in the  
21 public interest.

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

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

27       (f) Notwithstanding the provisions of Chapter 132 of the General Statutes, the  
28 supporting data and lists of apparent owners of escheated and abandoned property may be  
29 confidential until six months after the notice to clerks of superior court required by  
30 subsection (b) of this section has been distributed. This subsection shall not apply to  
31 owners of reported property making inquiries about their property to the Escheat Fund.

32 **"§ 116B-63. Custody by State; recovery by holder; defense of holder.**

33       (a) In this section, payment or delivery is made in 'good faith' if:

34           (1) Payment or delivery was made in a reasonable attempt to comply with  
35 this Chapter;

36           (2) The holder was not then in breach of a fiduciary obligation with respect  
37 to the property and had a reasonable basis for believing, based on the  
38 facts then known, that the property was presumed abandoned; and

39           (3) There is no showing that the records under which the payment or  
40 delivery was made did not meet reasonable commercial standards of  
41 practice.

42       (b) Upon payment or delivery of property to the Treasurer, the State assumes  
43 custody and responsibility for the safekeeping of the property. A holder who pays or

1 delivers property to the Treasurer in good faith is relieved of all liability arising thereafter  
2 with respect to the property.

3 (c) A holder who has paid money to the Treasurer pursuant to this Chapter may  
4 subsequently make payment to a person reasonably appearing to the holder to be entitled  
5 to payment. Upon a filing by the holder of proof of payment and proof that the payee  
6 was entitled to the payment, the Treasurer shall promptly reimburse the holder for the  
7 payment without imposing a fee or other charge. If reimbursement is sought for a  
8 payment made on a negotiable instrument, including a traveler's check or money order,  
9 the holder must be reimbursed upon filing proof that the instrument was duly presented  
10 and that payment was made to a person who reasonably appeared to be entitled to  
11 payment. The holder must be reimbursed for payment made even if the payment was  
12 made to a person whose claim was barred under G.S. 116B-71(a).

13 (d) A holder who has delivered property other than money to the Treasurer  
14 pursuant to this Chapter may reclaim the property if it is still in the possession of the  
15 Treasurer, without paying any fee or other charge, upon filing proof that the apparent  
16 owner has claimed the property from the holder.

17 (e) The Treasurer may accept a holder's affidavit as sufficient proof of the holder's  
18 right to recover money and property under this section.

19 (f) If a holder pays or delivers property to the Treasurer in good faith and  
20 thereafter another person claims the property from the holder or another state claims the  
21 money or property under its laws relating to escheat or abandoned or unclaimed property,  
22 the Treasurer, upon written notice of the claim, shall defend the holder against the claim  
23 and indemnify the holder against any liability on the claim resulting from payment or  
24 delivery of the property to the Treasurer.

25 **"§ 116B-64. Income or gain accruing after payment or delivery.**

26 If property other than money is delivered to the Treasurer under this Chapter, the  
27 owner is entitled to receive from the Treasurer any income or gain realized or accruing on  
28 the property at or before liquidation or conversion of the property into money. If the  
29 property is interest-bearing or pays dividends, the interest or dividends shall be paid until  
30 the date on which the amount of the deposits, accounts, or funds, or the shares must be  
31 remitted or delivered to the Treasurer under G.S. 116B-61. Otherwise, when property is  
32 delivered or paid to the Treasurer, the Treasurer shall hold the property without liability  
33 for income or gain.

34 **"§ 116B-65. Public sale of abandoned property.**

35 (a) Except as otherwise provided in this section, the Treasurer, within three years  
36 after the receipt of abandoned property, shall sell it to the highest bidder at public sale at  
37 a location in the State which in the judgment of the Treasurer affords the most favorable  
38 market for the property. The Treasurer may decline the highest bid and reoffer the  
39 property for sale if the Treasurer considers the bid to be insufficient. The Treasurer need  
40 not offer the property for sale if the Treasurer considers that the probable cost of sale will  
41 exceed the proceeds of the sale. A sale held under this section must be preceded by a  
42 single publication of notice, at least three weeks before sale, in a newspaper of general  
43 circulation in the county in which the property is to be sold. The Treasurer is not

1 required to sell money unless it is a collector's species having value greater than the face  
2 value of the money as cash.

3 (b) Securities listed on an established stock exchange must be sold at prices  
4 prevailing on the exchange at the time of sale. Other securities may be sold over the  
5 counter at prices prevailing at the time of sale or by any reasonable method selected by  
6 the Treasurer. If securities are sold by the Treasurer before the expiration of three years  
7 after their delivery to the Treasurer, a person making a claim under this Chapter before  
8 the end of the three-year period is entitled to the proceeds of the sale of the securities or  
9 the market value of the securities at the time the claim is made, whichever is greater, less  
10 any deduction for expenses of sale. A person making a claim under this Chapter after the  
11 expiration of the three-year period is entitled to receive the securities delivered to the  
12 Treasurer by the holder, if they still remain in the custody of the Treasurer, or the net  
13 proceeds received from sale, and is not entitled to receive any appreciation in the value of  
14 the property occurring after delivery to the Treasurer, except in a case of intentional  
15 misconduct by the Treasurer.

16 (c) A purchaser of property at a sale conducted by the Treasurer pursuant to this  
17 Chapter takes the property free of all claims of the owner or previous holder and of all  
18 persons claiming through or under them. The Treasurer shall execute all documents  
19 necessary to complete the transfer of ownership.

20 **"§ 116B-66. Claim of another state to recover property.**

21 (a) After property has been paid or delivered to the Treasurer under this Article,  
22 another state may recover the property if:

23 (1) The property was paid or delivered to the custody of this State because  
24 the records of the holder did not reflect a last known location of the  
25 apparent owner within the borders of the other state, and the other state  
26 establishes that the apparent owner or other person entitled to the  
27 property was last known to be located within the borders of that state  
28 and under the laws of that state the property has escheated or become  
29 subject to a claim of abandonment by that state;

30 (2) The property was paid or delivered to the custody of this State because  
31 the laws of the other state did not provide for the escheat or custodial  
32 taking of the property, and under the laws of that state subsequently  
33 enacted, the property has escheated or become subject to a claim of  
34 abandonment by that state;

35 (3) The records of the holder were erroneous in that they did not accurately  
36 identify the owner of the property and the last known location of the  
37 owner within the borders of another state, and under the laws of that  
38 state the property has escheated or become subject to a claim of  
39 abandonment by that state;

40 (4) The property was subjected to custody by this State under G.S. 116B-  
41 56(6), and under the laws of the state of domicile of the holder, the  
42 property has escheated or become subject to a claim of abandonment by  
43 that state; or

1           (5) The property is a sum payable on a traveler's check, money order, or  
2 similar instrument that was purchased in the other state and delivered  
3 into the custody of this State under G.S. 116B-56(7), and under the laws  
4 of the other state, the property has escheated or become subject to a  
5 claim of abandonment by that state.

6           (b) A claim of another state to recover escheated or abandoned property must be  
7 presented in a form prescribed by the Treasurer, who shall decide the claim within 90  
8 days after it is presented. The Treasurer shall allow the claim upon determining that the  
9 other state is entitled to the abandoned property under subsection (a) of this section.

10          (c) The Treasurer shall require another state, before recovering property under this  
11 section, to agree to indemnify this State and its officers and employees against any  
12 liability on a claim to the property.

13 **"§ 116B-67. Claim for property paid or delivered to the Treasurer.**

14          (a) A person, excluding another state, claiming property paid or delivered to the  
15 Treasurer may file a claim on a form prescribed by the Treasurer and verified by the  
16 claimant.

17          (b) At the discretion of the Treasurer, the claim shall be made to the holder or to  
18 the holder's successor. If the holder is satisfied that the claim is valid and that the  
19 claimant is the owner of the property, the holder shall so certify to the Treasurer by  
20 written statement attested by the holder under oath, or in the case of a corporation, by two  
21 principal officers, or one principal officer and an authorized employee of the corporation.  
22 The determination of the holder that the claimant is the owner shall, in the absence of  
23 fraud, be binding upon the Treasurer and upon receipt of the certificate of the holder to  
24 this effect, the Treasurer shall forthwith authorize and make payment of the claim or  
25 return of the property, or if the property has been sold, the amount received from the sale,  
26 to the owner, or to the holder in the event the owner has assigned the claim to the holder  
27 and the certificate of the holder is accompanied by an assignment. In the event the holder  
28 rejects the claim, the claimant may appeal to the Treasurer.

29          If the holder, or the holder's successor, is not available, the owner may file a claim  
30 with the Treasurer on a form prescribed by the Treasurer. In addition to any other  
31 information, the claim shall state the facts surrounding the unavailability of the holder  
32 and the lack of a successor.

33          (c) Within 90 days after a claim is filed, the Treasurer shall allow or deny the  
34 claim and give written notice of the decision to the claimant. If the claim is denied, the  
35 Treasurer shall inform the claimant of the reasons for the denial and specify what  
36 additional evidence is required before the claim will be allowed. The claimant may then  
37 file a new claim with the Treasurer or maintain an action under G.S. 116B-68.

38          (d) Within 30 days after a claim is allowed, the property or the net proceeds of a  
39 sale of the property must be delivered or paid by the Treasurer to the claimant.

40          (e) The claimant or claimants and the holder, if the holder either certifies that the  
41 claimant is the owner under subsection (b) of this section or recovers money and property  
42 from the Treasurer under G.S. 116B-63, shall agree to indemnify, save harmless, and  
43 defend the State, the Treasurer, and the Escheat Fund from any claim arising out of or in

1 connection with refund of the property claimed. In like manner, the claimant shall also  
2 agree to indemnify, save harmless, and defend the holder, if the holder certifies the claim  
3 under subsection (b) of this section or pays or delivers property to the claimant under  
4 G.S. 116B-63.

5 **"§ 116B-68. Action to establish claim.**

6 A person aggrieved by a decision of the Treasurer or whose claim has not been acted  
7 upon within 90 days after its filing may maintain an original action to establish the claim  
8 in the Superior Court of Wake County, naming the Treasurer as a defendant.

9 **"§ 116B-69. Election to take payment or delivery.**

10 (a) The Treasurer may decline to receive property reported under this Chapter  
11 which the Treasurer considers to have a value less than the expenses of notice and sale.

12 (b) A holder, with the written consent of the Treasurer and upon conditions and  
13 terms prescribed by the Treasurer, may report and deliver property before the property is  
14 presumed abandoned. Property so delivered must be held by the Treasurer and is not  
15 presumed abandoned until it otherwise would be presumed abandoned under this Article.

16 **"§ 116B-70. Destruction or disposition of property having no substantial  
17 commercial value; immunity from liability; property of historical  
18 significance.**

19 (a) If the Treasurer determines after investigation that property delivered under  
20 this Chapter has no substantial commercial value, the Treasurer may destroy or otherwise  
21 dispose of the property at any time. An action or proceeding may not be maintained  
22 against the State or any officer, employee, or agent of the State, both past and present, in  
23 the person's individual and official capacity, or against the holder for or on account of an  
24 act of the Treasurer under this subsection, except for intentional misconduct.

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

31 **"§ 116B-71. Periods of limitation.**

32 (a) The expiration, before or after the effective date of this Article, of a period of  
33 limitation on the owner's right to receive or recover property, whether specified by  
34 contract, statute, or court order, does not preclude the property from being presumed  
35 abandoned or affect a duty of a holder to file a report or to pay or deliver or transfer  
36 property to the Treasurer as required by this Article.

37 (b) An action or proceeding may not be maintained by the Treasurer to enforce  
38 this Article in regard to the reporting, delivery, or payment of property more than three  
39 years after the holder filed a report with the Treasurer in which the holder specifically  
40 identified property, should have but failed to identify property, or gave express notice to  
41 the Treasurer of a dispute regarding property. However, the period of limitation is  
42 extended to six years after the holder filed a report if the holder failed to identify more  
43 than twenty-five percent (25%) of the value of the property or to give express notice to



1 the Treasurer of a dispute regarding more than twenty-five percent (25%) of the value of  
2 the property. In the absence of such a report or other express notice, the period of  
3 limitation is tolled. The period of limitation is also tolled by the filing of a report that is  
4 fraudulent.

5 **"§ 116B-72. Requests for reports and examination of records.**

6 (a) The Treasurer may require a person who has not filed a report, or a person who  
7 the Treasurer believes has filed an inaccurate, incomplete, or false report, to file a  
8 verified report in a form specified by the Treasurer. The report must state whether the  
9 person is holding property reportable under this Chapter, describe property not previously  
10 reported or as to which the Treasurer has made inquiry, and specifically identify and state  
11 the value of property that may be in issue.

12 (b) The Treasurer, at reasonable times and upon reasonable notice, may examine  
13 the records of any person to determine whether the person has complied with this  
14 Chapter. The Treasurer may conduct the examination even if the person believes it is not  
15 in possession of any property that must be reported, paid, or delivered under this Chapter.  
16 The Treasurer may contract with any other person to conduct the examination on behalf  
17 of the Treasurer.

18 (c) The Treasurer at reasonable times may examine the records of an agent,  
19 including a dividend disbursing agent or transfer agent, of a business association that is  
20 the holder of property presumed abandoned if the Treasurer has given the notice required  
21 by subsection (b) of this section to both the association and the agent at least 90 days  
22 before the examination.

23 (d) Documents and working papers obtained or compiled by the Treasurer, or the  
24 Treasurer's agents, employees, or designated representatives, in the course of conducting  
25 an examination are confidential, but the documents and papers may be:

- 26 (1) Used by the Treasurer in the course of an action to collect unclaimed  
27 property or otherwise enforce this Chapter;  
28 (2) Used in joint examinations conducted with or pursuant to an agreement  
29 with another state, the federal government, or any other governmental  
30 subdivision, agency, or instrumentality;  
31 (3) Produced pursuant to subpoena or court order; or  
32 (4) Disclosed to the abandoned property office of another state for that  
33 state's use in circumstances equivalent to those described in this  
34 subsection, if the other state is bound to keep the documents and papers  
35 confidential.

36 (e) If an examination results in the disclosure of property reportable under this  
37 Chapter, the Treasurer may assess, against a holder who made a fraudulent report, the  
38 cost of the examination at the rate of two hundred dollars (\$200.00) a day for each  
39 examiner, or a greater amount that is reasonable and was incurred, but the assessment  
40 may not exceed the value of the property found to be reportable. The cost of an  
41 examination made pursuant to subsection (c) of this section may be assessed only against  
42 the business association.

1 (f) If a holder does not maintain the records required by G.S. 116B-73 and the  
2 records of the holder available for the periods subject to this Chapter are insufficient to  
3 permit the preparation of a report, the Treasurer may require the holder to report and pay  
4 to the Treasurer the amount the Treasurer reasonably estimates, on the basis of any  
5 available records of the holder or by any other reasonable method of estimation, should  
6 have been, but was not reported.

7 **"§ 116B-73. Retention of records.**

8 (a) Except as otherwise provided in subsection (b) of this section, a holder  
9 required to file a report under G.S. 116B-60 shall maintain the records containing the  
10 information required to be included in the report for 10 years after the holder files the  
11 report, unless a shorter period is provided by rule of the Treasurer.

12 (b) A business association that sells, issues, or provides to others for sale or issue  
13 in this State, traveler's checks, money orders, or similar instruments other than third-party  
14 bank checks, on which the business association is directly liable, shall maintain a record  
15 of the instruments while they remain outstanding, indicating the state and date of issue,  
16 for three years after the holder files the report.

17 **"§ 116B-73.1. Discretionary precompliance review.**

18 A holder may request the Treasurer to conduct a precompliance review of the holder's  
19 compliance program to educate the holder's employees on the unclaimed property laws  
20 and filing procedures and to recommend ways to facilitate the holder's compliance with  
21 the law. Subject to the availability of staff, the Treasurer may conduct a precompliance  
22 review upon request. The Treasurer may charge the holder a precompliance review fee  
23 of up to five hundred dollars (\$500.00) per day for conducting this review.

24 **"§ 116B-74. Enforcement.**

25 (a) The Treasurer may maintain an action in this or another state to enforce this  
26 Chapter.

27 (b) The Treasurer may order a person required to report, pay, or deliver property  
28 under this Chapter, or an officer or employee of the person, or a person having  
29 possession, custody, care, or control of records relevant to the matter under inquiry, or  
30 any other person having knowledge of the property or records, to appear before the  
31 Treasurer, at a time and place named in the order, and to produce the records and to give  
32 such testimony under oath or affirmation relevant to the inquiry. For purposes of this  
33 subsection, the Treasurer may administer oaths or affirmations. If a person refuses to  
34 obey an order of the Treasurer, the Treasurer may apply to the Superior Court of Wake  
35 County for an order requiring the person to obey the order of the Treasurer. Failure to  
36 comply with the court order is punishable for contempt.

37 **"§ 116B-75. Interstate agreements and cooperation; joint and reciprocal actions**  
38 **with other states.**

39 (a) The Treasurer may enter into an agreement with another state to exchange  
40 information relating to abandoned property or its possible existence. The agreement may  
41 permit the other state, or another person acting on behalf of a state, to examine records as  
42 authorized in G.S. 116B-72. The Treasurer by rule may require the reporting of

1 information needed to enable compliance with an agreement made under this section and  
2 prescribe the form.

3 (b) The Treasurer may join with another state to seek enforcement of this Chapter  
4 against any person who is or may be holding property reportable under this Chapter.

5 (c) At the request of another state, the Attorney General of this State may maintain  
6 an action on behalf of the other state to enforce, in this State, the unclaimed property laws  
7 of the other state against a holder of property subject to escheat or a claim of  
8 abandonment by the other state, if the other state has agreed to pay expenses incurred by  
9 the Attorney General in maintaining the action.

10 (d) The Treasurer may request that the attorney general of another state or another  
11 attorney commence an action in the other state on behalf of the Treasurer. With the  
12 approval of the Attorney General of this State, the Treasurer may retain any other  
13 attorney to commence an action in this State on behalf of the Treasurer. This State shall  
14 pay all expenses, including attorneys' fees, in maintaining an action under this subsection.  
15 With the Treasurer's approval, the expenses and attorneys' fees may be paid from money  
16 received under this Chapter. The Treasurer may agree to pay expenses and attorneys'  
17 fees based in whole or in part on a percentage of the value of any property recovered in  
18 the action. Any expenses or attorneys' fees paid under this subsection may not be  
19 deducted from the amount that is subject to the claim by the owner under this Chapter.

20 (e) The Treasurer is authorized to make such expenditures from the funds of the  
21 Escheat Fund as may be necessary to effectuate the provisions of this section.

22 **"§ 116B-76. Interest and penalties; waiver.**

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

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

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

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

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

5 **"§ 116B-77. Agreement to locate property.**

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

13 (b) An agreement by an owner, the primary purpose of which is to locate, deliver,  
14 recover, or assist in the recovery of property, is enforceable only if the agreement is in  
15 writing, clearly sets forth the nature of the property and the services to be rendered, is  
16 signed by the owner, and states the value of the property before and after the fee or other  
17 compensation has been deducted.

18 (c) If an agreement covered by this section applies to mineral proceeds and the  
19 agreement contains a provision to pay compensation that includes a portion of the  
20 underlying minerals or any mineral proceeds not then presumed abandoned, the provision  
21 is void and unenforceable.

22 (d) An agreement covered by this section that provides for compensation that is  
23 unconscionable is unenforceable except by the owner. An owner who has made an  
24 agreement to pay compensation that is unconscionable, or the Treasurer on behalf of the  
25 owner, may maintain an action to reduce the compensation to a conscionable amount.  
26 The court may award reasonable attorneys' fees to an owner who prevails in the action.

27 (e) This section does not preclude an owner from asserting that an agreement  
28 covered by this section is invalid on grounds other than as provided in subsection (d) of  
29 this section.

30 (f) Any person who enters into an agreement covered by this section with an  
31 owner shall register annually with the Treasurer. The information to be required under  
32 this subsection shall include the person's name, address, telephone number, state of  
33 incorporation or residence, as applicable, and the person's federal identification number.  
34 A registration fee of one hundred dollars (\$100.00) shall be paid to the Treasurer at the  
35 time of the filing of the registration information. Fees received under this subsection  
36 shall be credited to the General Fund.

37 **"§ 116B-78. Transitional provisions.**

38 (a) An initial report filed under this Article for property that was not required to be  
39 reported before the effective date of this Article but which is subject to this Article must  
40 include all items of property that would have been presumed abandoned during the 10-  
41 year period next preceding the effective date of this Article as if this Article had been in  
42 effect during that period.

1       (b) This Article does not relieve a holder of a duty that arose before the effective  
2 date of this Article to report, pay, or deliver property. Except as otherwise provided in  
3 G.S 116B-71(b) and G.S. 116B-76(d), a holder who did not comply with the law in effect  
4 before the effective date of this Article is subject to the applicable provisions for  
5 enforcement and penalties which then existed, which are continued in effect for the  
6 purpose of this section.

7 **"§ 116B-79. Rules.**

8       The Treasurer may adopt rules necessary to carry out this Chapter."

9       Section 7. G.S. 44A-4(b)(1) reads as rewritten:

10      "(b) Notice and Hearings. –

11          (1) If the property upon which the lien is claimed is a motor vehicle that is  
12              required to be registered, the lienor following the expiration of the  
13              relevant time period provided by subsection (a) shall give notice to the  
14              Division of Motor Vehicles that a lien is asserted and sale is proposed  
15              and shall remit to the Division a fee of ten dollars (\$10.00). The  
16              Division of Motor Vehicles shall issue notice by registered or certified  
17              mail, return receipt requested, to the person having legal title to the  
18              property, if reasonably ascertainable, to the person with whom the lienor  
19              dealt if different, and to each secured party and other person claiming an  
20              interest in the property who is actually known to the Division or who  
21              can be reasonably ascertained. The notice shall state that a lien has been  
22              asserted against specific property and shall identify the lienor, the date  
23              that the lien arose, the general nature of the services performed and  
24              materials used or sold for which the lien is asserted, the amount of the  
25              lien, and that the lienor intends to sell the property in satisfaction of the  
26              lien. The notice shall inform the recipient that the recipient has the right  
27              to a judicial hearing at which time a determination will be made as to  
28              the validity of the lien prior to a sale taking place. The notice shall  
29              further state that the recipient has a period of 10 days from the date of  
30              receipt in which to notify the Division by registered or certified mail,  
31              return receipt requested, that a hearing is desired and that if the recipient  
32              wishes to contest the sale of his property pursuant to such lien, the  
33              recipient should notify the Division that a hearing is desired. The notice  
34              shall state the required information in simplified terms and shall contain  
35              a form whereby the recipient may notify the Division that a hearing is  
36              desired by the return of such form to the Division. The Division shall  
37              notify the lienor whether such notice is timely received by the Division.  
38              In lieu of the notice by the lienor to the Division and the notices issued  
39              by the Division described above, the lienor may issue notice on a form  
40              approved by the Division pursuant to the notice requirements above. If  
41              notice is issued by the lienor, the recipient shall return the form  
42              requesting a hearing to the lienor, and not the Division, within 10 days  
43              from the date the recipient receives the notice if a judicial hearing is

1 requested. Failure of the recipient to notify the Division or lienor, as  
2 specified in the notice, within 10 days of the receipt of such notice that a  
3 hearing is desired shall be deemed a waiver of the right to a hearing  
4 prior to the sale of the property against which the lien is asserted, and  
5 the lienor may proceed to enforce the lien by public or private sale as  
6 provided in this section and the Division shall transfer title to the  
7 property pursuant to such sale. If the Division or lienor, as specified in  
8 the notice, is notified within the 10-day period provided above that a  
9 hearing is desired prior to sale, the lien may be enforced by sale as  
10 provided in this section and the Division will transfer title only pursuant  
11 to the order of a court of competent jurisdiction.

12 If the registered or certified mail notice has been returned as  
13 undeliverable, or if the name of the person having legal title to the  
14 vehicle cannot reasonably be ascertained and the fair market value of  
15 the vehicle is less than eight hundred dollars (\$800.00), the lienor may  
16 institute a special proceeding in the county where the vehicle is being  
17 held, for authorization to sell that vehicle. Market value shall be  
18 determined by the schedule of values adopted by the Commissioner  
19 under G.S. 105-187.3.

20 In such a proceeding a lienor may include more than one vehicle, but  
21 the proceeds of the sale of each shall be subject only to valid claims  
22 against that vehicle, and any excess proceeds of the sale shall ~~escheat to~~  
23 ~~the State and be paid immediately to the treasurer~~ Treasurer for  
24 disposition pursuant to Chapter 116B of the General Statutes. ~~A vehicle~~  
25 ~~owner or possessor claiming an interest in such proceeds shall have a right of~~  
26 ~~action under G.S. 116B-38.~~

27 The application to the clerk in such a special proceeding shall  
28 contain the notice of sale information set out in subsection (f) hereof. If  
29 the application is in proper form the clerk shall enter an order  
30 authorizing the sale on a date not less than 14 days therefrom, and the  
31 lienor shall cause the application and order to be sent immediately by  
32 first-class mail pursuant to G.S. 1A-1, Rule 5, to each person to whom  
33 notice was mailed pursuant to this subsection. Following the authorized  
34 sale the lienor shall file with the clerk a report in the form of an  
35 affidavit, stating that the lienor has complied with the public or private  
36 sale provisions of G.S. 44A-4, the name, address, and bid of the high  
37 bidder or person buying at a private sale, and a statement of the  
38 disposition of the sale proceeds. The clerk then shall enter an order  
39 directing the Division to transfer title accordingly.

40 If prior to the sale the owner or legal possessor contests the sale or  
41 lien in a writing filed with the clerk, the proceeding shall be handled in  
42 accordance with G.S. 1-399."

43 Section 8. G.S. 29-12 reads as rewritten:

1 **"§ 29-12. Escheats.**

2 If there is no person entitled to take under G.S. 29-14 or ~~29-15~~, G.S. 29-15, or if in  
3 case of an illegitimate intestate, there is no one entitled to take under G.S. 29-21 or ~~29-22~~  
4 G.S. 29-22 the net estate shall escheat as provided in ~~G.S. 116A-2~~, G.S. 116B-2."

5 Section 9. G.S. 53-43.7(b)

6 "(b) Any property, including documents or writings of a private nature, which has  
7 little or no apparent value, need not be sold but may be destroyed ~~by the Treasurer or by~~  
8 ~~the lessor, if retained by the lessor pursuant to a determination by the Treasurer under G.S.~~  
9 ~~116B-31(e).~~ lessor if the Treasurer declines to receive the property under G.S. 116B-  
10 69(a)."

11 Section 10. G.S. 53-43.7(d) reads as rewritten:

12 "(d) The lessor shall submit to the Treasurer a verified inventory of all of the  
13 contents of the safe-deposit box upon delivery of the contents of the box or such part  
14 thereof as shall be required by the Treasurer under ~~G.S. 116B-31(e)~~; G.S. 116B-55; but the  
15 lessor may deduct from any cash of the lessee in the safe-deposit box an amount equal to  
16 accumulated charges for rental and shall submit to the Treasurer a verified statement of  
17 such charges and deduction. If there is no cash, or insufficient cash to pay accumulated  
18 charges, in the safe-deposit box, the lessor may submit to the Treasurer a verified  
19 statement of accumulated charges or balance of accumulated charges due, and the  
20 Treasurer shall remit to the lessor the charges or balance due, up to the value of the  
21 property in the safe-deposit box delivered to ~~him~~, the Treasurer, less any costs or  
22 expenses of sale; but if the charges or balance due exceeds the value of such property, the  
23 Treasurer shall remit only the value of the property, less costs or expenses of sale. Any  
24 accumulated charges for safe-deposit box rental paid by the Treasurer to the lessor shall  
25 be deducted from the value of the property of the lessee delivered to the Treasurer."

26 Section 11. G.S. 53B-4 reads as rewritten:

27 **"§ 53B-4. Access to financial records.**

28 Notwithstanding any other provision of law, no government authority may have  
29 access to a customer's financial record held by a financial institution unless the financial  
30 record is described with reasonable specificity and access is sought pursuant to:

31 (1) Customer authorization that meets the requirements of the Right to  
32 Financial Privacy Act § 1104, 12 U.S.C. § 3404, provided, however, a  
33 customer authorization received by a State agency or a county  
34 department of social services for the purpose of determining eligibility  
35 for the programs of public assistance under Chapter 108A of the  
36 General Statutes, or for purposes of a government inquiry concerning  
37 these same programs of public assistance, cannot be revoked and shall  
38 remain valid for 12 months unless a shorter period is specified in the  
39 authorization, or a customer authorization that is given by a licensed  
40 attorney with respect to an account in which the attorney holds funds as  
41 a fiduciary;

42 (2) Authorization under G.S. 105-251, 105-251.1, or 105-258;

- 1 (3) Search warrant as provided in Article 11 of Chapter 15A of the General  
2 Statutes;
- 3 (4) Statutory authority of a supervisory agency to examine or have access to  
4 financial records in the exercise of its supervisory, regulatory, or  
5 monetary functions with respect to a financial institution;
- 6 (5) The authority granted under ~~G.S. 116B-39;~~ G.S. 116B-72 and G.S.  
7 116B-74;
- 8 (6) Examination and review by the State Auditor or his authorized  
9 representative under G.S. 147-64.6(c)(9) or ~~147-64.7(a);~~ G.S. 147-  
10 64.7(a);
- 11 (7) Request by a government authority authorized to buy and sell student  
12 loan notes under Article 23 of Chapter 116 of the General Statutes for  
13 financial records relating to insured student loans;
- 14 (8) Pending litigation to which the government authority and the customer  
15 are parties;
- 16 (9) Subpoena or court order in connection with a grand jury proceeding;
- 17 (10) A writ of execution under Article 28 of Chapter 1 of the General  
18 Statutes; or
- 19 (11) Other court order or administrative or judicial subpoena authorized by  
20 law if the requirements of G.S. 53B-5 are met.

21 As used in this section, the term 'reasonable specificity' means that degree of  
22 specificity reasonable under all the circumstances, ~~and~~ and, with respect to requests under  
23 G.S. 116B-72 and G.S. 116B-74, may include designation by general type or class as  
24 authorized in G.S. 116B-39. class."

25 Section 12. G.S. 116-209.3 reads as rewritten:

26 **"§ 116-209.3. Additional powers.**

27 The Authority is authorized to develop and administer programs and perform all  
28 functions necessary or convenient to promote and facilitate the making and insuring of  
29 student loans and providing such other student loan assistance and services as the  
30 Authority shall deem necessary or desirable for carrying out the purposes of this Article  
31 and for qualifying for loans, grants, insurance and other benefits and assistance under any  
32 program of the United States now or hereafter authorized fostering student loans. There  
33 shall be established and maintained a trust fund which shall be designated 'State  
34 Education Assistance Authority Loan Fund' (the 'Loan Fund') which may be used by the  
35 Authority in making student loans directly or through agents or independent contractors,  
36 insuring student loans, acquiring, purchasing, endorsing or guaranteeing promissory  
37 notes, contracts, obligations or other legal instruments evidencing student loans made by  
38 banks, educational institutions, nonprofit corporations or other eligible lenders, and for  
39 defraying the expenses of operation and administration of the Authority for which other  
40 funds are not available to the Authority. There shall be deposited to the credit of such  
41 Loan Fund the proceeds (exclusive of accrued interest) derived from the sale of its  
42 revenue bonds by the Authority and any other moneys made available to the Authority  
43 for the making or insuring of student loans or the purchase of obligations. There shall



1 also be deposited to the credit of the Loan Fund surplus funds from time to time  
2 transferred by the Authority from the sinking fund. Such Loan Fund shall be maintained  
3 as a revolving fund. There is also deposited to the credit of the Loan Fund the income  
4 derived from the investment or deposit of the Escheat Fund distributed to the Authority  
5 pursuant to ~~G.S. 116B-37.~~ G.S. 116B-7. The income shall be held, administered and  
6 applied by the Authority as provided in any resolution adopted or trust agreement  
7 approved by the Authority, subject to the provisions of Chapter 116B of the General  
8 Statutes and this Article.

9 In lieu of or in addition to the Loan Fund, the Authority may provide in any resolution  
10 authorizing the issuance of bonds or any trust agreement securing such bonds that any  
11 other trust funds or accounts may be established as may be deemed necessary or  
12 convenient for securing the bonds or for making student loans, acquiring obligations or  
13 otherwise carrying out its other powers under this Article, and there may be deposited to  
14 the credit of any such fund or account proceeds of bonds or other money available to the  
15 Authority for the purposes to be served by such fund or account."

16 Section 13. If any provision of this act or the application thereof to any person  
17 or circumstance is held invalid, the invalidity does not affect the provisions or  
18 applications of this act which can be given effect without the invalid provision or  
19 application, and to this end the provisions of this act are severable.

20 Section 14. The Revisor of Statutes shall cause to be printed with this act all  
21 explanatory comments of the drafters of this act as the Revisor may deem appropriate.

22 Section 15. This act becomes effective January 1, 2000, and shall apply to  
23 property existing on or after that date. G.S. 116B-54(d), as enacted in Section 6 of this  
24 act, is intended to clarify and not change existing law.