

## **Chapter 116B.**

### **Escheats and Abandoned Property.**

#### Article 1.

#### General.

§ **116B-1:** Recodified as G.S. 116B-2.1 in new Article 1A of Chapter 116B by Session Laws 2020-48, s. 3.1(b), (d), effective June 26, 2020.

#### **§ 116B-1.1. Policy and interpretation.**

The policy of the State is to recover and transfer property to rightful owners in a manner that is consistent with the interest of the rightful owners. Where the rightful owner cannot be appropriately determined, it is the policy of the State that all benefits realized from any unclaimed or abandoned property shall accrue to the benefit of higher education for the residents of the State. This Chapter shall be liberally interpreted in a manner that fulfills these purposes. (2020-48, s. 3.2.)

§ **116B-2:** Recodified as G.S. 116B-2.2 in new Article 1A of Chapter 116B by Session Laws 2020-48, s. 3.1(c), (d), effective June 26, 2020.

#### Article 1A.

#### Escheats.

#### **§ 116B-2.1. Escheats to Escheat Fund.**

All real estate which has accrued to the State since June 30, 1971, or shall hereafter accrue from escheats, shall be vested in the Escheat Fund. Title to any such real property which has escheated to the Escheat Fund shall be conveyed by deed in the manner now provided by G.S. 146-74 through G.S. 146-78, except as is otherwise provided herein: Provided, that in any action in the superior court of North Carolina wherein the State Treasurer is a party, and wherein said court enters a judgment of escheat for any real property, then, upon petition of the State Treasurer in said action, said court shall have the authority to appoint the State Treasurer or his designated agent as a commissioner for the purpose of selling said real property at a public sale, for cash, at the courthouse door in the county in which the property is located, after properly advertising the sale according to law. The said commissioner, when appointed by the court, shall have the right to convey a valid title to the purchaser of the property at public sale. The funds derived from the sale of any such escheated real property by the commissioner so appointed shall thereafter be paid by him into the Escheat Fund. (Const., art. 9, s. 7; 1789, c. 306, s. 2; P.R.; R.C., c. 113, s. 11; Code, s. 2626; Rev., s. 4282; C.S., s. 5784; 1947, c. 494; 1961, c. 257; 1971, c. 1135, s. 2; 1979, 2nd Sess., c. 1311, s. 1; 2020-48, s. 3.1(b), (d).)

#### **§ 116B-2.2. Unclaimed real and personal property escheats to the Escheat Fund.**

Whenever the owner of any real or personal property situated or located within this State dies intestate, or dies testate but did not dispose of all real or personal property by will, without leaving surviving any heirs, as defined in G.S. 29-2(3), to inherit said property under the laws of this State, such real and personal property shall escheat. The State Treasurer shall have the right to institute

a civil action in the superior court of any county in which such real or personal property is situated, against any administrator, executor, and unknown heirs or unknown claimants as party defendants, which unknown heirs or unknown claimants may be served with summons and notice of such action by publication as is now provided by the laws of this State. If an administrator or executor has been appointed, he shall make a determination that there are no known heirs or unknown claimants and shall inform the State Treasurer of that determination. The superior court in which such civil action is instituted shall have the authority to enter a judgment therein declaring the real and personal property unclaimed as having escheated, and the real property may be sold according to the provisions of G.S. 116-2.1 [G.S. 116B-2.1]. A default final judgment may be entered by the clerk of the superior court in such cases when no answer is filed by the administrator, executor, unknown heirs or unknown claimants to the complaint, or if any answer is filed, the allegations of the complaint are either admitted or not denied by such party defendants, and no claim is made in the answer to the property left by said deceased person. The funds derived from such sale shall be paid into the Escheat Fund where said funds, together with all other escheated funds, shall be held without liability for profit or interest, subject to any just claims therefor. (1957, c. 1105, s. 1; 1971, c. 1135, s. 2; 1979, 2nd Sess., c. 1311, s. 1; 2020-48, s. 3.1(c)-(e).)

### **§ 116B-3. Unclaimed personalty on settlements of decedents' estates to the Escheat Fund.**

All sums of money or other personal estate of whatever kind which shall remain in the hands of any administrator, executor, administrator c.t.a., or personal representative when the administration of an estate of a person dying intestate, or partially intestate, without leaving any known heirs to inherit same, is ready to be closed, unrecovered or unclaimed by suit, by creditors, heirs, or others entitled thereto, shall, prior to the closing of the administration of the estate, be paid or delivered by such administrator or executor to the State Treasurer as an escheat and shall be included in the disbursements in the final account of such estate. In such cases as above described, the State Treasurer is authorized to demand, sue for, recover, and collect such unclaimed moneys or other personal estate of whatever kind from any administrator or executor after the estate is ready to be closed, or from the clerk of the superior court if the unclaimed assets have been paid over to him, and the State Treasurer shall hold the same without liability for profit or interest, subject to any just claims therefor. The provisions of this section and G.S. 116B-2.2 shall apply to the estate of a person missing for 30 days or more and the State Treasurer may bring an action to have a receiver appointed in such case under the provisions of Chapter 28C, Estates of Missing Persons. (1957, c. 1105, ss. 2, 21/2; 1971, c. 1135, s. 2; 1979, 2nd Sess., c. 1311, s. 1; 1981, c. 531, s. 1; 2020-48, s. 3.1(d), (f).)

### **§ 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-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 of the General Statutes. The provisions of G.S. 116B-67(a), (c), (d), and (e) and G.S. 116B-68 shall apply to a claim under this section. (1979, 2nd Sess., c. 1311, s. 1; 1999-460, s. 1; 2020-48, s. 3.1(d).)

### **§ 116B-5. Escheat Fund.**

All property escheated or abandoned under the provisions of this Chapter and all property escheated or abandoned since June 30, 1971, under the provisions of former Chapter 116A, as

amended, shall be paid into a fund to be administered by the Treasurer, which fund shall be designated the Escheat Fund. No escheated or abandoned property heretofore paid or delivered to the University of North Carolina pursuant to any constitutional provision or statute of this State shall be subject to the provisions of this Chapter. (1979, 2nd Sess., c. 1311, s. 1; 1999-460, s. 3(b); 2020-48, s. 3.1(d).)

**§ 116B-6. Administration of Escheat Fund; Escheat Account.**

(a) Escheat Account. – All funds received by the Treasurer as escheated or abandoned property and which were transferred prior to January 1, 1980, to the trust fund created under G.S. 116-209 shall remain in that trust fund and shall be placed in a special fund, designated the "Escheat Account."

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

(c) Security Interest in Escheat Account. – The State Education Assistance Authority, in addition to other powers vested under G.S. 116-201 to G.S. 116-209.23, inclusive, is authorized to pledge and vest a security interest in all or any part of the Escheat Account, by resolution adopted or trust agreement approved by it, as security for or insurance respecting the payment of bonds or other obligations, as defined in G.S. 116-201, including principal, interest and redemption premium, if any; provided, that such pledge and security interest in the Escheat Account shall, in the determination of the Authority, constitute a use of the Escheat Fund to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The Authority may submit to the Treasurer, from time to time as it deems necessary, requisitions for transfers of money in the Escheat Account to pay such bonds and other obligations to the extent necessary under such pledge of, or security interest in, the Escheat Account, or any part thereof, and the Treasurer is authorized and directed to pay such money so requisitioned to the Authority for such purposes.

(d) Limitation on Amount of Obligations Secured. – The principal amount of bonds and other obligations insured or secured by the Escheat Account shall not exceed 10 times the amount held for the credit of the Escheat Account, as certified from time to time by the Treasurer, and, in no event, shall exceed three hundred fifty million dollars (\$350,000,000). If the amount held for the credit of the Escheat Account, as certified by the Treasurer, shall be ten percent (10%) or less of the principal amount of the bonds and other obligations so insured or secured, the Authority shall not issue any additional bonds or cause additional obligations to be insured or secured by the Escheat Account until such time as the amount held for the credit of the Escheat Account exceeds ten percent (10%) of the principal amount of the bonds and other obligations secured or insured by the Escheat Account.

(e) Use of Excess Funds. – If the amount held for the credit of the Escheat Account at any time shall exceed the sum of thirty-five million dollars (\$35,000,000), such excess may be used by

the State Education Assistance Authority, with the written approval of the Treasurer, for the purpose of either (i) making student loans or (ii) refunding outstanding bonds or other obligations issued by the Authority and secured by a pledge of, or a security interest in, the Escheat Account. Any excess so used shall be repaid by the Authority to the Escheat Account in the manner agreed between the Authority and the Treasurer.

(f) Refund Reserve. – The Treasurer shall retain in the Escheat Fund, as a permanent refund reserve, either the sum of five million dollars (\$5,000,000) or a sum equal to the total value of escheated or abandoned property received in the preceding fiscal year, whichever is greater, for the purpose of payment of refunds of escheated or abandoned property to persons entitled thereto.

(g) Additional Funds for Refunds. – If at any time the amount of the refund reserve shall be insufficient to make refunds required to be made, the Treasurer, in addition, may use all current receipts derived from escheated or abandoned property, exclusive of earnings and profits on investments of the Escheat Fund and the Escheat Account, for the purpose of making such refunds; and if all such funds shall be inadequate for such refunds, the Treasurer may apply to the Council of State, pursuant to the State Budget Act, to the limit of funds available from the Contingency and Emergency Fund, for a loan, without interest, to supply any deficiencies, in whole or in part. No receipts derived from escheated or abandoned property, other than earnings or profits on investments, shall be paid to the Authority until: (i) all valid claims for refund have been paid; (ii) the reserve for refund shall equal five million dollars (\$5,000,000); and (iii) the amount loaned from the Contingency and Emergency Fund shall have been repaid by the Escheat Fund.

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

(i) Records. – The State Treasurer must maintain the records it receives from holders who report unclaimed property in accordance with G.S. 116B-60. To protect the privacy of the owners of unclaimed property, the information that may be subject to public inspection will be limited to the information the State Treasurer is required to annually submit to the clerks of superior court in accordance with G.S. 116B-62.

(j) Data Sharing. – On or before February 1 of each year, the North Carolina Division of Motor Vehicles, the North Carolina Department of Revenue, and the Division of Employment Security (DES) of the North Carolina Department of Commerce shall provide to the Treasurer, for the Treasurer's confidential use, information to facilitate locating owners of unclaimed property. The Treasurer may not use any information obtained pursuant to this section for any purpose except for locating owners of unclaimed property. (1979, 2nd Sess., c. 1311, s. 1; 1999-460, ss. 3(b), 4(a), (b); 2011-230, s. 1; 2011-401, s. 5.1; 2012-152, s. 3.1; 2012-194, s. 61.5(b); 2013-281, s. 1; 2015-109, s. 1; 2015-241, s. 11.1(d); 2020-48, s. 3.1(d).)

#### **§ 116B-7. Distribution of fund.**

(a) The income derived from the investment or deposit of the Escheat Fund shall be distributed annually on or before August 15 to the State Education Assistance Authority for grants and loans to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. Such grants and loans shall be made upon terms, consistent with the provisions of this Chapter, pursuant to which the State Education Assistance Authority makes grants and loans to other students under G.S. 116-201 to 116-209.23, Article 23 of Chapter 116 of the General Statutes, policies of the Board of Governors of The University of North Carolina regarding need-based grants for students of The University of North Carolina, and policies of the State Board of Community Colleges regarding need-based grants for students of the community colleges.

(b) An amount specified in the Current Operations Appropriations Act shall be transferred annually from the Escheat Fund to the Department of Military and Veterans Affairs to partially fund the program of Scholarships for Children of War Veterans established by Part 2 of Article 14 of Chapter 143B of the General Statutes. Those funds may be used only for residents of this State who (i) are worthy and needy as determined by the Department of Military and Veterans Affairs and (ii) are enrolled in public institutions of higher education of this State. (1979, 2nd Sess., c. 1311, s. 1; 1999-460, s. 3(b); 2002-126, s. 9.19(a); 2003-284, s. 18.5(b); 2013-360, s. 11.1(f); 2015-241, ss. 11.1(c), 24.1(t); 2015-268, s. 7.3(a); 2020-48, s. 3.1(d).)

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

The Treasurer may employ the services of such independent consultants, real estate managers and other persons possessing specialized skills or knowledge as the Treasurer deems necessary or appropriate for the administration of this Chapter, including valuation, maintenance, upkeep, management, sale and conveyance of property and determination of sources of unreported abandoned property. The Treasurer may also employ the services of an attorney to perform a title search or to provide an accurate legal description of real property which the Treasurer has reason to believe may have escheated. Persons whose services are employed by the Treasurer pursuant to this section to determine sources and amounts of unreported property are subject to the same policies, including confidentiality and ethics, as employees of the Department of State Treasurer assigned to determine sources and amounts of unreported property. If the Treasurer contracts with any other person to conduct an audit under this Chapter, the audit shall not be performed on a contingent fee basis or any other similar method that may impair an auditor's independence or the perception of the auditor's independence by the public. Notwithstanding the preceding sentence, the Treasurer may contract with any other person on a contingent fee basis to conduct audits of life insurance companies where the audit is being conducted for the purpose of identifying unclaimed death benefits or to conduct audits of holders of unredeemed bond funds. Compensation of persons whose services may be employed pursuant to this section on a contingent fee basis shall be limited to twelve percent (12%) of the final assessment. (1979, 2nd Sess., c. 1311, s. 1; 1999-460, ss. 3(b), 5; 2012-152, s. 3; 2012-194, s. 61.5(a), (b); 2015-109, s. 1; 2020-48, s. 3.1(d).)

**§ 116B-9.** Reserved for future codification purposes.

Article 2.

Abandoned Property.

**§§ 116B-10 through 116B-26. Repealed by Session Laws 1999-460, s. 2, effective January 1, 2000.**

ARTICLE 3.

Administration of Abandoned Property.

**§ 116B-27: Recodified as § 116B-5 by Session Laws 1999-460, s. 3(b).**

**§§ 116B-28 through 116B-35. Repealed by Session Laws 1999-460, s. 3(a), effective January 1, 2000.**

**§ 116B-36: Recodified as § 116B-6 by Session Laws 1999-460, s. 3(b).**

**§ 116B-37: Recodified as § 116B-7 by Session Laws 1999-460, s. 3(b).**

**§§ 116B-38 through 116B-46. Repealed by Session Laws 1999-460, s. 3(a), effective January 1, 2000.**

**§ 116B-47: Recodified as § 116B-8 by Session Laws 1999-460, s. 3(b).**

**§§ 116B-48 through 116B-49. Repealed by Session Laws 1999-460, s. 3(a), effective January 1, 2000.**

**§ 116B-50. Reserved for future codification purposes.**

Article 4.

North Carolina Unclaimed Property Act.

**§ 116B-51. Short title.**

This Article may be cited as the "North Carolina Unclaimed Property Act." (1999-460, s. 6.)

**§ 116B-52. Definitions.**

In this Chapter:

- (1) "Apparent owner" means a person whose name appears on the records of a holder as the person entitled to property held, issued, or owing by the holder.
- (2) "Business association" means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, mutual fund, utility, or other business entity consisting of one or more persons, whether or not for profit.

- (3) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.
- (4) "Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union.
- (5) "Holder" means a person obligated to hold for the account of or deliver or pay to the owner property that is subject to this Chapter.
- (6) "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection, and workers' compensation insurance.
- (7) "Mineral" means gas, oil, coal, other gaseous, liquid, and solid hydrocarbons, oil shale, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resource, or any other substance defined as a mineral by the law of this State.
- (8) "Mineral proceeds" means amounts payable for the extraction, production, or sale of minerals, or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes amounts payable:
  - a. For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties, and delay rentals;
  - b. For the extraction, production, or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments, and production payments; and
  - c. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement, and farm-out agreement.
- (9) "Owner" means a person who has a legal or equitable interest in property subject to this Chapter or the person's legal representative. The term includes a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant, or payee in the case of other property.
- (10) "Person" means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (11) "Property" means (i) money 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 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:
  - a. Money, a check, draft, deposit, interest, or dividend;

- b. Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds, or unidentified remittance;
  - c. Security or other evidence of ownership of an interest in a business association;
  - d. A bond, debenture, note, or other evidence of indebtedness;
  - e. Money deposited to redeem stocks, bonds, coupons, or other securities, or to make distributions;
  - f. An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance, or health and disability insurance; and
  - g. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.
- (11a) "Property finder" means an individual or business entity, incorporated or otherwise, who, for fee or any other consideration, seeks to locate, deliver, recover, or assist in the recovery of property that is distributable to the owner or presumed abandoned.
- (12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (13) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.
- (14) "Treasurer" means the Treasurer of the State of North Carolina or the Treasurer's designated agent.
- (15) "Utility" means a person who owns or operates for public use any plant, equipment, real property, franchise, or license for the transportation of the public, the transmission of communications, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas. (1999-460, s. 6; 2011-230, s. 2; 2013-281, s. 2; 2017-134, s. 3; 2021-157, s. 2(d).)

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

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

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

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



- (2) The presentment of a check or other instrument of payment of interest made with respect to debt of a business association or, in the case of an interest payment made by electronic or similar means, evidence that the interest payment has been received;
- (3) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease, or change the amount or type of property held in the account;
- (4) The making of a deposit to or withdrawal from an account in a financial organization;
- (5) Owner activity in another account with the holder of a deposit described in subdivisions (c)(2) and (c)(6) of this section; and
- (6) The payment of a premium with respect to a property interest in an insurance policy; but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

(c) Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

- (1) Traveler's check, 15 years after issuance.
- (2) Time deposit, including a deposit that is automatically renewable, 10 years after the later of initial maturity or the date of the last indication by the owner of interest in the property.
- (3) Money order, cashier's check, teller's check, and certified check, seven years after issuance.
- (4) A security or other equity interest in a business association, including a security entitlement under Article 8 of the Uniform Commercial Code, Chapter 25 of the General Statutes, three years after the earlier of:
  - a. The date of a cash dividend or other distribution unclaimed by the apparent owner.
  - b. The date a second consecutive mailing, notification, or communication from the holder to the apparent owner by first-class mail is returned to the holder as unclaimed by or undeliverable to the apparent owner.
  - c. The date the holder discontinued mailings, notifications, or communications to the apparent owner.

This subdivision applies to both the underlying security, share, or other intangible ownership interest of an owner, and any security, share, or other intangible interest of which the business association is in possession of the certificate or other evidence or indicia of ownership, and to the security, share, or other ownership interest of dividend and nondividend paying business associations whether or not the interest is represented by a certificate.

- (5) Debt of a business association, including debt evidenced by a matured or called bearer bond or an original issue discount bond, three years after the date of an interest or principal payment unclaimed by the apparent owner.

- (5a) Any dividend, profit, distribution, interest, redemption, payment on principal, cash compensation (including amounts from a demutualized insurance company), or other sum held or owing by a business association for or to its shareholder, certificate holder, policyholder, member, bondholder, or other security holder, who has not claimed it, or corresponded in writing with the business association concerning it, within three years after the date prescribed for payment or delivery.
- (6) Demand or savings deposit, five years after the date of the last indication by the owner of interest in the property.
- (7) Money or credits owed to a customer as a result of a retail business transaction, three years after the obligation accrued.
- (8) Any gift certificate or electronic gift card bearing an expiration date and remaining unredeemed or dormant for more than three years after the gift certificate or electronic gift card was sold is deemed abandoned. The amount abandoned is deemed to be sixty percent (60%) of the unredeemed portion of the face value of the gift certificate or the electronic gift card.
- (9) Amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, three years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.
- (10) Property distributable by a business association in a course of dissolution, one year after the property becomes distributable.
- (11) Property received by a court as proceeds of a class action, and not distributed pursuant to the judgment, one year after the distribution date.
- (12) Property held by a court, government, governmental subdivision, agency, or instrumentality, one year after the property becomes distributable.
- (13) Wages or other compensation for personal services, one year after the compensation becomes payable.
- (14) Deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable.
- (15) Property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty.
- (16) All other property, five years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

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

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

payment or distribution, except as otherwise provided by the Uniform Commercial Code. (1999-460, s. 6; 2001-226, s. 1; 2005-132, s. 1; 2011-230, s. 3; 2017-134, s. 4.)

**§ 116B-54. Exclusion for forfeited reservation deposits, certain gift certificates or electronic gift cards, prepaid calling cards, certain manufactured home buyer deposits, certain credit balances, unclaimed lottery prizes, and certain merchandise credits.**

(a) A forfeited reservation deposit is not abandoned property. For the purposes of this section, the term "reservation deposit" means an amount of money paid to a business association to guarantee that the business association holds a specific service, such as a room accommodation at a hotel, seating at a restaurant, or an appointment with a doctor, for a specified date and place. The term "reservation deposit" does not include an application fee, a utility deposit, or a deposit made toward the purchase of real property.

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

- (1) Conspicuously states that the gift certificate or electronic gift card does not expire;
- (2) Bears no expiration date; or
- (3) States that a date of expiration printed on the gift certificate or electronic gift card is not applicable in North Carolina.

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

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

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

(f) A lottery prize that remains unclaimed after the period set by the North Carolina State Lottery Commission for claiming those prizes shall not constitute abandoned property.

(g) A card or certificate, whether paper, electronic, or other format, issued for a merchandise credit that meets the requirements of subsection (b) of this section is not abandoned property under G.S. 116B-53(c)(7). (1999-460, s. 6; 2005-276, s. 31.1(w1); 2005-344, s. 7; 2015-218, s. 4.5(a).)

**§ 116B-54.1. Unclaimed United States savings bonds.**

(a) U.S. Savings Bonds. – Except as otherwise provided in this section, the provisions of this Article apply to United States savings bonds. A United States savings bond is unclaimed and presumed abandoned if the owner of the savings bond fails to redeem the savings bond within three years after the savings bond has fully matured. The Treasurer may bring a civil action under this section to take all property rights and legal title and ownership of the savings bond or proceeds from the savings bond, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary. For purposes of this section, the term "savings bond" also includes United States savings notes, also known as Freedom Shares.

(b) Civil Action. – Within 365 days after a United States savings bond is unclaimed and presumed abandoned under subsection (a) of this section, the Treasurer may commence a civil action in the Superior Court of Wake County for a determination that the savings bond escheats to

the State of North Carolina. The Treasurer must make sufficient efforts to locate the owner of the savings bond before bringing an action under this section. The Treasurer may not bring an action under this section until a sufficient amount of United States savings bonds have accumulated owing to persons with a last known address of North Carolina to justify the expense of a proceeding under this section. The Treasurer may not bring an action under this section as to a specific savings bond if a claim has been filed for that savings bond in accordance with the provisions of this Article.

(c) Title to the Savings Bond. – The court must enter a judgment that the United States savings bonds have escheated to the State of North Carolina and that all property rights and legal title to and ownership of the savings bonds or proceeds from the bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary, vest solely in the State of North Carolina if all of the following conditions are met:

- (1) No person files a claim or appears at the hearing to substantiate a claim.
- (2) The court determines that a person who has filed a claim or appears at the hearing to substantiate a claim is not entitled to the property claimed by the claimant.
- (3) The court is satisfied by the evidence that the Treasurer has substantially complied with the laws of this State.

(d) Claim for Escheated Savings Bond. – A person claiming ownership for a United States savings bond that has escheated to the State of North Carolina, or for the proceeds from a savings bond that has been redeemed by the Treasurer, may file a claim in accordance with the provisions of this Article. Upon providing sufficient proof of the validity of a person's claim, the Treasurer may pay the claim.

(e) Redemption of Savings Bond. – The Treasurer must take steps necessary to redeem any United States savings bond that has escheated to the State of North Carolina under this section. The proceeds from the redemption of the savings bond must be deposited in the Escheat Savings Bond Trust Fund, as provided in subsection (f) of this section.

(f) Escheat Savings Bond Trust Fund. – The Escheat Savings Bond Trust Fund is established as a separately accounted fund within the Escheat Fund. The net proceeds from redemption of United States savings bonds must be credited to this Fund. The Escheat Savings Bond Trust Fund shall be treated as an endowment, and subject to the Treasurer withholding an amount necessary to accomplish the Treasurer's duties as set out in this Chapter, its corpus may only be spent for purposes of investment and to pay funds to potential claimants. The interest and investment earnings on the Escheat Savings Bond Trust Fund shall be used exclusively to provide scholarships to worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. (2014-93, s. 1.)

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

(a) Contents of a safe deposit box or other safekeeping depository held by a financial organization is presumed abandoned if the apparent owner has not claimed the property within the period established by G.S. 53C-6-13 and shall be delivered to the Treasurer as provided by that section. If the contents include property described in G.S. 116B-53, the Treasurer shall hold the property for the remainder of the applicable period set forth in that section before the property is deemed to be received for purpose of sale under G.S. 116B-65.

(b) Notwithstanding any other provision of law in this Chapter or Chapter 53C of the General Statutes, the contents of a safe deposit box or other safekeeping depository shall not be delivered to the Treasurer if the Treasurer determines any of the following:

- (1) The contents pose a potential public safety issue.
- (2) The contents are specifically regulated by another agency or authority.
- (3) The contents are illegal contraband.
- (4) The contents do not have substantial commercial value.

(c) Each financial organization must complete, verify, and return a form prescribed by the Treasurer that provides identifying information for each item of property, including a good-faith estimated value. If the Treasurer determines that an item of property satisfies one or more of the factors listed in subsection (b) of this section, the Treasurer will either instruct the financial organization to place the property in the custody of the appropriate local, State or federal authority, or instruct the financial organization to destroy or otherwise dispose of the property. If property is delivered to the Treasurer and is later determined to satisfy one or more of the factors listed in subsection (b) of this section, the Treasurer shall deliver the property to the appropriate authority or instruct the appropriate authority to retrieve the property from the Treasurer or the Treasurer may destroy or otherwise store or dispose of the property.

(d) None of the following shall be liable for any loss due to the disposal of any materials identified under subsection (b) of this section unless the loss is due to intentional misconduct:

- (1) The State, the Treasurer, or any officer, employee, or agent of the State or the Treasurer, acting in the person's individual and official capacity.
- (2) A financial organization or any officer, employee, or agent of the financial organization. (1999-460, s. 6; 2012-56, s. 46; 2015-68, s. 1.)

#### **§ 116B-56. Rules for taking custody.**

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

- (1) The last known address of the apparent owner, as shown on the records of the holder, is in this State;
- (2) The records of the holder do not reflect the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in this State;
- (3) The records of the holder do not reflect the last known address of the apparent owner and it is established that:
  - a. The last known address of the person entitled to the property is in this State; or
  - b. The holder is domiciled in this State or is a government or governmental subdivision, agency, or instrumentality of this State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;
- (4) The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property, and the holder is domiciled in this State or is a government or governmental subdivision, agency, or instrumentality of this State;

- (5) The last known address of the apparent owner, as shown on the records of the holder, is in a foreign country, and the holder is domiciled in this State or is a government or governmental subdivision, agency, or instrumentality of this State; or
- (6) The property is a traveler's check or money order purchased in this State or the issuer of the traveler's check or money order has its principal place of business in this State and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property or do not show the state in which the instrument was purchased.

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

- (1) A person other than the insured or the principal is entitled to the property; and
- (2) Either:
  - a. No address of the person is known to the insurance company; or
  - b. The records of the insurance company do not reflect the identity of the person. (1999-460, s. 6.)

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

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

(b) This Chapter does not prevent a holder from deducting from property presumed abandoned other lawful charges specifically authorized by statute or by a valid and enforceable contract. (1999-460, s. 6.)

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

A record of the issuance of a check, draft, or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the Treasurer's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge, and want of consideration are affirmative defenses that must be established by the holder. In asserting these affirmative defenses, a holder who is also the issuer may satisfy the holder's burden of proof by showing a written acknowledgement by the payee of a check, draft, or similar instrument that no obligation is owed the payee. (1999-460, s. 6.)

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

(a) Repealed by Session Laws 2017-134, s. 2(a), effective October 1, 2017, and applicable to property presumed abandoned on or after that date.

(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.

(b) Repealed by Session Laws 2017-134, s. 2(a), effective October 1, 2017, and applicable to property presumed abandoned on or after that date.

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

- (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, address, and contact information 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.
- (4) A statement that, once property is placed in the custody of the Treasurer, all interest, dividends, income, and gains earned on the property will remain with the Treasurer, even if the owner subsequently reclaims the property from the Treasurer. (1979, 2nd Sess., c. 1311, s. 1; 1981, c. 531, ss. 4-6; 1993, c. 539, s. 898; c. 541, s. 5; 1994, Ex. Sess., c. 24, s. 14(c); 1999-460, s. 6; 2017-134, s. 2(a).)

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

(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.

(b) For amounts due to the apparent owner of property of the value of fifty dollars (\$50.00) or more, the report must be verified and must contain the following, if known by the holder:

- (1) Except with respect to a traveler's check or money order, full name, last known address, social security number or taxpayer identification number, date of birth, drivers license or state identification number, and e-mail address of each person who, from the records of the holder of the property, appears to be the apparent owner of the property.
- (2) A description of the property, the identification number, if any, and the property amount.
- (3) Repealed by Session Laws 2011-230, s. 4, effective October 1, 2011.
- (4) In the case of an amount held or owing under an annuity or a life or endowment insurance policy, the full name and last known address, social security number or taxpayer identification number, date of birth, drivers license or state identification number, and e-mail 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.
- (6) Other information that the Treasurer by rule prescribes as necessary for the administration of this Chapter.

(b1) With the exception of property subject to G.S. 116B-53(c)(4), 116B-53(c)(5), and 116B-53(c)(5a), amounts due an apparent owner less than fifty dollars (\$50.00) may be reported in an aggregate amount without furnishing any of the information required by subsection (b) of this section.

(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.

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

(e) Before the date for filing the report, the holder of property presumed abandoned may request the Treasurer to extend the time for filing the report. The Treasurer may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

(f) The holder of property presumed abandoned shall file with the report a certification and verification that the holder has complied with G.S. 116B-59.

(f1) Any holder who has intangible property due to be reported with a cumulative value of two hundred fifty dollars (\$250.00) or less in a single reporting year shall not be required to report the property in that year but shall report the property in any year when the value or aggregate value exceeds two hundred fifty dollars (\$250.00).

(g) Every business association holding property presumed abandoned under this Chapter shall certify the holding in the income tax return required by Chapter 105 of the General Statutes. The certification shall be a part of the tax return with which it is filed. If the business association is not required to file an income tax return under Chapter 105, the certification shall be made in the form and manner required by the Secretary of Revenue. The information appearing on the certification is not privileged or confidential, and this information shall be furnished by the Secretary of Revenue to the Escheat Fund on October 1 of each year, or if this date shall fall on a weekend or holiday, on the next regular business day. (1979, 2nd Sess., c. 1311, s. 1; 1981, c. 531, ss. 7, 8; 1983, c. 204, s. 3; 1985, c. 215, ss. 2, 3; 1987, c. 163, ss. 1-3; 1993, c. 541, s. 6; 1999-460, s. 6; 2009-177, s. 1; 2011-230, s. 4; 2013-281, s. 3; 2020-48, ss. 3.5(a), 3.6.)

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

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

(b) If the property reported to the Treasurer is a security or security entitlement under Article 8 of Chapter 25 of the General Statutes, the Treasurer is an appropriate person to make an



indorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with Article 8 of Chapter 25 of the General Statutes.

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

(d) An issuer, the holder, and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and must be indemnified against claims of any person in accordance with G.S. 116B-63. (1979, 2nd Sess., c. 1311, s. 1; 1981, c. 531, s. 14; 1987, c. 163, s. 6; 1993, c. 541, s. 7; 1999-460, s. 6.)

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

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

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

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

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

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

(d) The clerks of superior court shall make the lists available for public inspection.

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

(f) Notwithstanding the provisions of Chapter 132 of the General Statutes, any supporting data, including aging reports, or lists of apparent owners of unclaimed property held by a clerk of superior court or any other office of State or local government may be confidential but shall be disclosed to the Treasurer in accordance with the reporting of escheated and abandoned property. The supporting data and lists of apparent owners of escheated and abandoned property held by the

Treasurer may be confidential until 12 months after the list to the clerks of superior court required by subsection (b) of this section has been distributed. This subsection shall not apply to owners of reported property making inquiries about their property to the Escheat Fund. (1979, 2nd Sess., c. 1311, s. 1; 1981, c. 531, ss. 9-13; 1983, c. 204, ss. 4-7; 1985, c. 215, s. 4; 1987, c. 163, ss. 4, 5; 1999-460, s. 6; 2009-312, s. 1; 2010-97, s. 10.)

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

(a) In this section, payment or delivery is made in "good faith" if all of the following apply:

- (1) Payment or delivery was made in a reasonable attempt to comply with this Chapter.
- (2) The holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned.
- (3) There is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.

(b) Upon payment or delivery of property to the Treasurer, the State assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the Treasurer in good faith is relieved of all liability arising thereafter with respect to the property.

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

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

(d1) A holder who has in good faith paid or delivered property to the Treasurer in error may request a refund from the Treasurer. Upon a filing with the Treasurer by the holder of proof of the error on a form prescribed by the Treasurer, the Treasurer may refund the holder.

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

(f) If a holder pays or delivers property to the Treasurer in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the Treasurer, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim resulting from payment or delivery of the property to the Treasurer. (1979, 2nd Sess., c. 1311, s. 1; 1989, c. 114, s. 3; 1999-460, s. 6; 2020-48, s. 3.7(a).)

**§ 116B-64. Loss, income, or gain accruing after payment or delivery.**

If property other than money is delivered to the Treasurer under this Chapter, the owner is entitled to receive from the Treasurer any income or gain realized or accruing on the property at or before liquidation or conversion of the property into money. If the property is interest-bearing or pays dividends, the interest or dividends shall be paid until the date on which the amount of the deposits, accounts, or funds, or the shares must be remitted or delivered to the Treasurer under G.S. 116B-61. Otherwise, when property is delivered or paid to the Treasurer, the Treasurer shall hold the property without liability for loss, income, or gain. (1979, 2nd Sess., c. 1311, s. 1; 1999-460, s. 6; 2020-48, s. 3.3.)

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

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

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

(c) A purchaser of property at a sale conducted by the Treasurer pursuant to this Chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them. The Treasurer shall execute all documents necessary to complete the transfer of ownership. (1979, 2nd Sess., c. 1311, s. 1; 1999-460, s. 6; 2011-230, s. 5; 2021-13, s. 1.)

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

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

- (1) The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state, and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of that state the

property has escheated or become subject to a claim of abandonment by that state;

- (2) The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking of the property, and under the laws of that state subsequently enacted, the property has escheated or become subject to a claim of abandonment by that state;
- (3) The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state, and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state; or
- (4) Repealed by Session Laws 2000, c. 140, s. 27.
- (5) The property is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered into the custody of this State under G.S. 116B-56(a)(6), and under the laws of the other state, the property has escheated or become subject to a claim of abandonment by that state.

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

(c) The Treasurer shall require another state, before recovering property under this section, to agree to indemnify this State and its officers and employees against any liability on a claim to the property. (1999-460, s. 6; 2000-140, s. 27.)

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

(a) A person, excluding another state, claiming property paid or delivered to the Treasurer may file a claim on a form prescribed by the Treasurer and verified by the claimant if the amount claimed exceeds five thousand dollars (\$5,000). For all other claims, the Unclaimed Property Division may pay the rightful owner upon verification of ownership by the Treasurer.

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

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

(c) Within 90 days after a claim is filed, the Treasurer shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Treasurer shall inform the claimant of the reasons for the denial and specify what additional evidence is required before

the claim will be allowed. The claimant may then file a new claim with the Treasurer or maintain an action under G.S. 116B-68.

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

(e) The claimant or claimants and the holder, if the holder either certifies that the claimant is the owner under subsection (b) of this section or recovers money and property from the Treasurer under G.S. 116B-63, shall agree to indemnify, save harmless, and defend the State, the Treasurer, and the Escheat Fund from any claim arising out of or in connection with refund of the property claimed. In like manner, the claimant shall also agree to indemnify, save harmless, and defend the holder, if the holder certifies the claim under subsection (b) of this section or pays or delivers property to the claimant under G.S. 116B-63. In the event that a person is not required to submit a claim on a form prescribed by the Treasurer and the claim is paid from the Escheat Fund, then it shall be presumed that the claimant has agreed to indemnify, save harmless, and defend the State, the Treasurer, and the Escheat Fund from any claim arising out of or in connection with refund of the property claimed. (1979, 2nd Sess., c. 1311, s. 1; 1987, c. 163, s. 8; c. 827, s. 18; 1999-460, s. 6; 2020-80, s. 2.6(a), (b); 2021-3, s. 2.16; 2021-13, s. 2.)

#### **§ 116B-68. Action to establish claim.**

A person aggrieved by a decision of the Treasurer or whose claim has not been acted upon within 90 days after its filing may maintain an original action to establish the claim in the Superior Court of Wake County, naming the Treasurer as a defendant. (1999-460, s. 6.)

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

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

(b) A holder, with the written consent of the Treasurer and upon conditions and terms prescribed by the Treasurer, may report and deliver property before the property is presumed abandoned. Property so delivered must be held by the Treasurer and is not presumed abandoned until it otherwise would be presumed abandoned under this Article. (1979, 2nd Sess., c. 1311, s. 1; 1981, c. 531, s. 14; 1987, c. 163, ss. 6, 7; 1993, c. 541, s. 7; 1999-460, s. 6.)

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

(a) If the Treasurer determines after investigation that property 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. (1979, 2nd Sess., c. 1311, s. 1; 1999-460, s. 6; 2015-68, s. 2; 2015-241, s. 14.30(t); 2017-134, s. 1(a).)

**§ 116B-71. Periods of limitation.**

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

(b) An action or proceeding may not be maintained by the Treasurer to enforce this Article in regard to the reporting, delivery, or payment of property more than five years after the holder filed a report with the Treasurer in which the holder specifically identified property, should have but failed to identify property, or gave express notice to the Treasurer of a dispute regarding property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent. (1979, 2nd Sess., c. 1311, s. 1; 1993, c. 541, s. 8; 1999-460, s. 6.)

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

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

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

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

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

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

(e) If an examination results in the disclosure of property reportable under this Chapter, the Treasurer may assess, against a holder who made a fraudulent report, the cost of the examination at the rate of two hundred dollars (\$200.00) a day for each examiner, or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the

property found to be reportable. The cost of an examination made pursuant to subsection (c) of this section may be assessed only against the business association.

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

(g) Any examination under this section may include the Treasurer utilizing any and all reliable external data, including electronic databases deemed relevant by the Treasurer. (1979, 2nd Sess., c. 1311, s. 1; 1981, c. 671, s. 18; 1999-460, s. 6; 2015-246, s. 7(a).)

#### **§ 116B-73. Retention of records.**

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

(b) A business association that sells, issues, or provides to others for sale or issue in this State, traveler's checks, money orders, or similar instruments other than third-party bank checks, on which the business association is directly liable, shall maintain a record of the instruments while they remain outstanding, indicating the state and date of issue, for three years after the holder files the report. (1999-460, s. 6; 2012-187, s. 9.)

#### **§ 116B-74. Discretionary precompliance review.**

A holder may request the Treasurer to conduct a precompliance review of the holder's compliance program to educate the holder's employees on the unclaimed property laws and filing procedures and to recommend ways to facilitate the holder's compliance with the law. Subject to the availability of staff, the Treasurer may conduct a precompliance review upon request. The Treasurer may charge the holder a precompliance review fee of up to five hundred dollars (\$500.00) per day for conducting this review. (1999-460, s. 6.)

#### **§ 116B-75. Enforcement.**

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

(b) The Treasurer may order a person required to report, pay, or deliver property under this Chapter, or an officer or employee of the person, or a person having possession, custody, care, or control of records relevant to the matter under inquiry, or any other person having knowledge of the property or records, to (i) appear before the Treasurer, at a time and place named in the order, (ii) produce the reports and records, (iii) make the required payments, (iv) make the required delivery of property, and (v) give testimony under oath or affirmation relevant to the inquiry. For purposes of this subsection, the Treasurer may administer oaths or affirmations. If a person refuses to obey an order of the Treasurer, the Treasurer may apply to the Superior Court of Wake County for an order requiring the person to obey the order of the Treasurer. Failure to comply with the court order is punishable for contempt. (1999-460, s. 6; 2020-48, s. 3.4.)

#### **§ 116B-76. Interstate agreements and cooperation; joint and reciprocal actions with other states.**

(a) The Treasurer may enter into an agreement with another state to exchange information relating to abandoned property or its possible existence. The agreement may permit the other state, or another person acting on behalf of a state, to examine records as authorized in G.S. 116B-72. The Treasurer by rule may require the reporting of information needed to enable compliance with an agreement made under this section and prescribe the form.

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

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

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

(e) The Treasurer is authorized to make such expenditures from the funds of the Escheat Fund as may be necessary to effectuate the provisions of this section. (1979, 2nd Sess., c. 1311, s. 1; 1999-460, s. 6.)

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

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

(b) A holder who willfully fails to report, pay, or deliver property within the time prescribed by this Chapter, or willfully fails to perform other duties imposed by this Chapter, including the duties imposed by G.S. 116B-59, shall pay to the Treasurer, in addition to interest as provided in subsection (a) of this section, a civil penalty of one thousand dollars (\$1,000) for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of twenty-five thousand dollars (\$25,000), plus twenty-five percent (25%) of the value of any property that should have been but was not reported.

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



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

(d) The Treasurer for good cause may waive, in whole or in part, interest under subsection (a) of this section and penalties under subsection (b) of this section. (1979, 2nd Sess., c. 1311, s. 1; 1989, c. 114, s. 4; 1999-460, s. 6; 2017-134, s. 2(b).)

**§ 116B-78. Agreement to locate property between property finders and owners or apparent owners.**

(a) Repealed by Session Laws 2009-312, s. 2, effective October 1, 2009, and applicable to agreements entered into on or after that date.

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

(a2) Void Agreements. – An agreement covered by this section is void and unenforceable if either of the following situations applies:

(1) The agreement was entered into during the period commencing on the date the property was distributable to the owner and extending to a time that is 24 months after the date the property is paid or delivered to the Treasurer. This subdivision does not apply to an owner's agreement with an attorney to file a claim or special proceeding as to identified property or contest the Treasurer's denial of a claim or a clerk's denial of a petition.

(2) The agreement involves a property finder as defined in G.S. 116B-52(11a), or any individual who acts as an agent for, serves as legal counsel for, or conducts business in any contractual capacity with a property finder, and the individual is also appointed as the personal representative of the owner or purported owner's estate.

(b) Criteria for Agreements. – An agreement covered by this section is void and unenforceable if it does not meet all of the following criteria:

(1) Is in writing and clearly sets forth the nature of the property and the services to be rendered.

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

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

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

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

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

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

b. For an agreement subject to G.S. 28A-22-11 by an heir, unknown or known but unlocated, the primary purpose of which is to locate or recover, or assist in the recovery, of a share in a decedent's estate, or

surplus funds in a special proceeding, total fees and costs shall not exceed twenty percent (20%) of the value of the property recovered.

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

(8) Agreements with heirs, as defined in G.S. 28A-22-11, shall include a certification that the personal representative is not a person who is employed by, acts as an agent for, serves as legal counsel for, or conducts business in any contractual capacity with a property finder, as defined by G.S. 116B-52(11a), who has entered into an agreement to locate property defined by the agreement.

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

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

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

(f) Registration. – A property finder shall register each calendar year with the Treasurer. The information to be required under this subsection shall include the person's name, address, telephone number, state of incorporation or residence, as applicable, and the person's social security or federal identification number. A registration fee of one hundred dollars (\$100.00) shall be paid to the Treasurer at the time of the filing of the registration information. Fees received under this subsection shall be credited to the General Fund.

(g) Unfair Trade Practice. – In addition to rendering an agreement void and unenforceable, a failure to comply with the provisions of this section constitutes an unfair or deceptive trade practice under G.S. 75-1.1. (1979, 2nd Sess., c. 1311, s. 1; 1989, c. 114, s. 6; 1999-460, s. 6; 2009-312, s. 2; 2021-157, s. 2(e).)

### **§ 116B-78.1. Property finder regulation and enforcement.**

(a) A property finder shall be licensed as a private investigator by the North Carolina Private Protective Services Board pursuant to Chapter 74C of the General Statutes.

(b) A property finder shall not initiate a claim with the Treasurer at any time prior to being registered as a property finder under G.S. 116B-78(f) or prior to licensure as a private investigator. Failure to comply with this subsection may result in the denial of the property finder's registration for a period of up to one year.

(c) A property finder shall not initiate a claim with the Treasurer at any time prior to obtaining a valid agreement with an owner or apparent owner. Failure to comply with this section may result in the suspension of the property finder's registration for a period of up to one year.

(d) If a property finder enters into an agreement to locate property that does not comply with G.S. 116B-78, then the Treasurer may suspend the property finder's registration for a period of up to one year.

(e) A property finder with a suspended registration is prohibited from conducting business with the Unclaimed Property Division. Any pending or potential claims shall be denied during any period of suspension. (2021-157, s. 2(f).)

**§ 116B-79. Transitional provisions.**

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

(b) This Article does not relieve a holder of a duty that arose before the effective date of this Article to report, pay, or deliver property. Except as otherwise provided in G.S. 116B-71(b) and G.S. 116B-77(d), a holder who did not comply with the law in effect before the effective date of this Article is subject to the applicable provisions for enforcement and penalties which then existed, which are continued in effect for the purpose of this section. (1999-460, s. 6.)

**§ 116B-80. Rules.**

The Treasurer may adopt rules necessary to carry out this Chapter. (1979, 2nd Sess., c. 1311, s. 1; 1987, c. 827, s. 19; 1989, c. 114, s. 5; 1999-460, s. 6.)