

March 26, 2009

**S 1021. PROPERTY FINDERS.** Filed 3/25/09. *TO PROTECT OWNERS OF ABANDONED PROPERTY BY REGULATING PROPERTY FINDERS.*

Amends GS 116B-78 regarding an agreement covered by this section (was, an agreement by an owner) with a primary purpose to locate, recover, or assist (deletes "deliver") in the recovery of property presumed to be abandoned that is (1) being held by a clerk of superior court (clerk) or (2) has been transferred to the State Treasurer (Treasurer) by a clerk. Provides that such an agreement is void and unenforceable if (1) it is entered into during the time period starting with the date that the property was presumed abandoned and (2) extends 24 months after the date that the property is paid or delivered to the Treasurer or the clerk of superior court (was, Treasurer). Identifies agreements under this section as including power of attorney and agreements to sale or release interest in property that is presumed abandoned. Provides that subsection (a) of GS 116B-78, as amended, does not apply to an owner's agreement with an attorney to file a special proceeding or contest the denial of a claim or petition.

Amends the criteria which an agreement covered by this section must meet in order to be enforceable. Provides that the written agreement: (1) be signed by the owner under oath; (2) describe the property; (3) state that there may be other claims to the property; (4) clearly state the fees and costs for services, not to exceed \$1,000 or 20% of the value of the recovered property, whichever is less; and (5) disclose that the property is being held by the NC Department of State Treasurer's Unclaimed Property Program or in a clerk of superior court's office.

Deletes provision providing that an agreement that provides for compensation that is unconscionable is unenforceable except by the owner. Permits any person who enters into an agreement covered by this section with an owner to receive cash property on behalf of the owner, but cannot receive tangible property or securities or negotiate the check made payable to the owner. Requires the Treasurer to deliver tangible property to the owner and requires securities to be reregistered in the owner's name. Requires any person who enters into an agreement with an owner to register each calendar year with the Treasurer (was, annually) and provide the person's Social Security or federal identification number (was, federal identification number).

Provides that failing to comply with this section renders an agreement void and unenforceable and is an unfair and deceptive trade practice under GS 75-1.1.

Applies to agreements entered into on or after October 1, 2009.

**Intro. by Stein.**

GS 116B

May 12, 2009

**S 1021. PROPERTY FINDERS.** Filed 3/25/09. Senate committee substitute makes the following changes to 1st edition. Amends GS 116B-62, requiring the Treasurer to transmit its lists to the Administrative Office of the Courts electronically and to publish its lists by June 30th of each year. Deletes requirement that clerks retain the list on permanent file and providing that clerks make the lists available for public inspection. Enacts GS 28A-22-11 providing that any agreement by an heir, unknown or known but unlocated, the primary purpose for which is to locate or recover, or assist in the recovery, of a share in a decedent's estate is subject to the provisions of GS 116B-78(b). Modifies effective date to make the act effective October 1, 2009, and applicable to agreements entered into on or after that date. Makes technical changes.

May 27, 2009

**S 1021. PROPERTY FINDERS.** Filed 3/25/09. House committee substitute makes the following changes to 2nd edition. Makes technical changes only.

June 25, 2009

**S 1021. PROPERTY FINDERS.** Filed 3/25/09. House committee substitute makes the following changes to 3rd edition. Amends GS 116B-62 to clarify that the list of escheated and abandoned property is to be prepared annually by the State Treasurer (Treasurer). Directs the Treasurer to send the prepared list to the Administrative Office of the Courts (AOC) as soon as possible after June 30 each year but no later than July 31, and directs the AOC to distribute the list to each

clerk of superior court as soon as possible after receiving it but no later than August 31 annually (was, delivered to the AOC to be distributed to each clerk of superior court prior to June 30). Directs that the Treasurer cause the notice concerning the lists to be published no later than August 31 of each year (was, June 30 of each year). Provides that supporting data and lists of apparent owners of unclaimed property (was, escheated and abandoned property) may be kept confidential but directs that the information should be disclosed to the Treasurer in accordance with the reporting of escheated and abandoned property.

Amends GS 116B-78 to extend the regulation of finder agreements to cover property, regardless of where it is held, if it is distributable to the owner or presumed abandoned. Provides that finder's agreements entered into during the period beginning on the date that 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 are void and unenforceable. Does not apply to an owner's agreement with an attorney to file a claim or special proceeding as to identified property or to contest the Treasurer's denial of a claim or a clerk's denial of a petition. Specifies the criteria for enforceable agreements to require that the owner's signature on the agreement be notarized (was, under oath) and qualifies that the value of the property is to be stated to the extent known. Limits the fees and costs of services to 20% of the value of the property recovered, regardless of the amount, if the finder agreement is by heirs.

Makes additional technical and organizational changes.

July 20, 2009

**SL 2009-312 (S 1021). PROPERTY FINDERS. AN ACT TO PROTECT OWNERS OF ABANDONED PROPERTY BY REGULATING PROPERTY FINDERS.** Summarized in *Daily Bulletin* 3/26/09, 5/12/09, 5/27/09, and 6/25/09. Enacted July 17, 2009. Effective October 1, 2009.