



# HOUSE BILL 291: Hazardous Materials in Safe Deposit Box

2015-2016 General Assembly

**Committee:**

**Introduced by:**

**Analysis of:** S.L. 2015-68

**Date:**

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Staff Attorneys

**SUMMARY:** *S.L. 2015-68 gives the State Treasurer authority in the handling of unclaimed property determined to be of a hazardous nature or otherwise regulated, illegal, or which has no substantial commercial value and provides guidance for the proper disposition of these materials on the part of financial organizations. The act provides that none of the following are liable for any loss due to the disposal of materials unless the loss is due to intentional misconduct:*

- *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.*
- *A financial organization or any officer, employee, or agent of the financial organization.*

*This act became effective October 1, 2015.*

**CURRENT LAW:** The Department of State Treasurer oversees and maintains the State's database of unclaimed property. By law, these funds are escheated, or turned over, to the Department for safekeeping. The State Treasurer is the Escheat Officer for the State of North Carolina with the responsibility for collection, management, and investment of moneys in the Escheat Fund.

Under current law, 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 statutorily prescribed time limits and must be delivered to the Treasurer. The Treasurer may decline to receive property reported which the Treasurer considers to have a value less than the expenses of notice and sale. Also, the Treasurer may destroy or otherwise dispose of property that has been delivered to the Treasurer that has no substantial commercial value.

**BILL ANALYSIS:** S.L. 2015-68 provides that notwithstanding any other provision of law in Chapter 116B or Chapter 53C (the Banking Law), the contents of a safe deposit box or other safekeeping depository must not be delivered to the State Treasurer if the Treasurer determines any of the following:

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

The act requires each financial institution to complete a form prescribed by the Treasurer that provides identifying information for each item of property, including a good faith estimated value. If an item of property satisfies one or more of the factors above, then the Treasurer will instruct the financial



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organization to place the property in the custody of the appropriate authority or instruct the financial organization to destroy or otherwise dispose of the property.

If the Treasurer accepts the property, but later determines that it satisfies one or more of the factors above, then it (1) must deliver the property to the appropriate authority or instruct the appropriate authority to retrieve the property from the Treasurer or (2) the Treasurer may destroy, store, or otherwise dispose of the property.

The act provides that none of the following are liable for any loss due to the disposal of materials unless the loss is due to intentional misconduct:

- 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.
- A financial organization or any officer, employee, or agent of the financial organization.

The act removes the Treasurer's authority to destroy or otherwise dispose of property delivered under this law that has no substantial commercial value.

**EFFECTIVE DATE:** The act became effective October 1, 2015.