

**2. Unclaimed Property** (G.S. § 15-12 through G.S. § 15-16)

Unclaimed property that has been seized, confiscated or otherwise received by any sheriffs or police department may be sold as long as the department complies with certain requirements.

- a. **WAITING PERIOD** - The property must remain unclaimed by the person who may be entitled to it for at least 180 days (60 days for bicycles) from the date of receipt by the law enforcement agency maintaining custody.
- b. **NOTICE OF UNCLAIMED PROPERTY** - After the specified period of time, the department must publish a notice of unclaimed property in a newspaper published in the county. Publication of this notice is required only one time. The notice of unclaimed property must contain a brief description of the property, specify that the listed items are in the custody of the department giving notice, and state that any person who may have or claim any interest in the property must report that claim to the department within 30 days of the date of publication of the notice. This notice should also include a statement that any unclaimed property will be sold or otherwise disposed.
- c. **NOTICE OF SALE** - Under G.S. § 15-14, the department must also advertise the sale of the unclaimed property prior to selling it. This requirement is in addition to the "notice of unclaimed property" mentioned above. The notice of sale must:
  - 1) be published at least one time in a newspaper published in the county;
  - 2) be posted at the courthouse door;
  - 3) be posted at three other public places in the county;
  - 4) be published and posted at least 10 days prior to the sale;
  - 5) specify the time and place of the sale; and
  - 6) contain a sufficient description of the property to be sold.

**(NOTE:** *The "notice of unclaimed property" and the "notice of sale" may be combined for publication as long as all requirements for both notices are met.*)

- d. **SALE OF PROPERTY** - If property remains unclaimed for the 30 days required by the "notice of unclaimed property", and both notices (or a combined notice) have been properly published, then the property may be sold by the department. The property must be sold at public auction, for cash, to the highest bidder. The auction sale may be either: at the courthouse

door; the county law enforcement headquarters if the sale is conducted by the sheriff; or the city police headquarters. The department **is** not required to let the sale lay open after the auction for increased bids or objections, but may deem the sale closed when the purchaser at the sale pays the amount of the accepted bid.

\* If the property is a bicycle, the department may donate it to a charitable organization exempt under § 501(c)(3) of the Internal Revenue Code. If it is to be donated, the notice of unclaimed property must state that is the intended disposition if not claimed by rightful owner.

**(NOTE:** *The statute does not prohibit the department from utilizing an auctioneer or other city or county personnel to actually conduct this sale. However, it remains the department's responsibility to ensure that the sale was properly and legally conducted.*)

- e. PROCEEDS OF SALE - The proceeds realized from the sale of unclaimed property shall be first used to pay the costs and expenses of the sale. Then, any balance remaining from the proceeds shall be paid, within 30 days after the sale, to the treasurer of the county Board of Education for the benefit of the public schools in that county.

**(NOTE:** *The county Board of Education always receives these types of proceeds, even if a city school system exists and/or the sale is conducted by the city's police department.*)

- f. LIABILITY - No sheriff, police department, or other officer shall be liable for any damages or claims arising from the sale or disposition of unclaimed property, provided the sale was conducted in compliance with **G.S. § 15-11** through **G.S. § 15-17**.

### 3. Claimed and Found Property

- a. CLAIMED PROPERTY - When a person claims to be the rightful owner of property in the possession of a law enforcement agency, that agency should obtain enough information, including identification, to satisfy the agency that the person claiming ownership is the rightful owner. If the agency has doubts regarding the "claimant", or if more than one person claims the same property, the agency should not release the property. The person trying to obtain the property can petition the court for the property. After a hearing to determine ownership of the property, the court will enter an order designating the person (or persons) to whom the agency should release the property.