

MORRIS NICHOLS'
DELAWARE UNCLAIMED PROPERTY LAW COMPANION
2011 - 2012

Courtesy of the
Unclaimed Property Counseling Group
Morris, Nichols, Arsht & Tunnell LLP

Subchapter I. Intestate Property

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§ 1101. Escheat of estates.

If any person, being at the time of death seized or possessed of any real or personal estate within this State, dies intestate, without heirs or any known kindred who can inherit and hold the intestate's estate, such estate is escheat to the State, subject to all legal demands on the same.

Code 1852, § 1587; Code 1915, § 123; Code 1935, § 112; 42 Del. Laws, c. 57, § 1; 12 Del. C. 1953, § 1101; 49 Del. Laws, c. 51; 60 Del. Laws, c. 292, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1102. Escheator of the State.

There shall be an Escheator of the State, who shall be the Secretary of Finance or the Secretary's delegate. The administration and enforcement of this subchapter are vested in the Secretary of Finance or the Secretary's delegate.

Code 1852, § 1588; Code 1915, § 124; Code 1935, § 113; 42 Del. Laws, c. 57, § 1; 12 Del. C. 1953, § 1102; 57 Del. Laws, c. 741, § 48A; 60 Del. Laws, c. 292, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1103. Suit to determine escheat.

(a) Filing suit. -- The Escheator, upon personal knowledge or upon receipt of information of any person dying intestate and without heirs or any known kindred who can inherit and hold the intestate property within this State, of which at the time of death such person was seized or possessed, and which has not previously been escheated to the State by order of the Probate Court, shall cause to be filed a suit in the Court of Chancery of the State in the county wherein such property is located (or if located in more than 1 county in any such county) to inquire whether, as shall be alleged, the person has died without heirs or any known kindred who can inherit and hold the estate, and whether such person was, at the time of death, seized or possessed of any and what estate, real or personal, in the county or counties, and also in whose possession the same shall be.

(b) Notice of Court action. -- Upon filing suit in the Court of Chancery, the Escheator shall cause to be published at least once a week for 3 consecutive weeks in a newspaper of general circulation in the county or counties wherein such property is located, notice that the State has filed suit in the Court of Chancery to secure an order that the decedent's property has escheated to the State due to failure of heirs or next of kin qualified to inherit such property.

Said notice shall invite any person having a valid claim to the intestate

property of the decedent to file written notice of such claim with the Court of Chancery within 30 days of the date of the third and final publication notice. The Escheator shall also cause similar notice to be posted at the site of any real property the decedent may have owned, and give similar notice by registered mail to all persons known to the Escheator to be in actual possession of the decedent's property.

Code 1852, § 1590; Code 1915, § 126; Code 1935, § 115; 42 Del. Laws, c. 57, § 1; 12 Del. C. 1953, § 1103; 60 Del. Laws, c. 292, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1104. Final hearing and order.

After the required notice has been given, a hearing shall be scheduled by the Court of Chancery at which all claimants may present evidence in support of their respective claims. If the Court finds that the conditions for escheat have been met, the Court shall issue an order that the decedent's property escheated to the State as of the date of death. If the Court finds that the conditions for escheat have not been met, the State's petition shall be dismissed and the decedent's property shall be disposed of as otherwise provided by law.

Code 1852, § 1591; Code 1915, § 127; Code 1935, § 116; 12 Del. C. 1953, § 1104; 60 Del. Laws, c. 292, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1105. Presumption of death.

If any person is absent from the State for 7 consecutive years, and no evident proof is made of the person's life in any hearing held under the foregoing provisions of this subchapter, the person shall be accounted dead.

Code 1852, § 1592; Code 1915, § 128; Code 1935, § 117; 12 Del. C. 1953, § 1105; 60 Del. Laws, c. 292, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1106. Seizure of escheated personalty.

If, after hearing as provided herein, the Court finds that goods and chattels have escheated to the State and that said goods and chattels are not in the possession of the Court or the Escheator, the Escheator shall issue a writ, directed to the sheriff of the county, commanding the sheriff to seize, attach and secure such escheated goods and chattels, in whose hands the same are found, or if it is found at the aforesaid hearing that the goods and chattels or any part thereof have been eloigned, then to seize and attach so much of the goods and chattels of the person who has eloigned the same as shall be equal in value to the goods and chattels which the person eloigned.

Code 1852, § 1593; Code 1915, § 129; Code 1935, § 118; 12 Del. C. 1953, § 1106; 60 Del. Laws, c. 292, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1107. Sale of seized property by sheriff.

The sheriff shall sell the goods and chattels seized and attached in accordance with this subchapter at public auction, after notice as in the case of sale of goods and chattels under execution process and shall, without delay, pay over the proceeds, thence arising to the Escheator for deposit in the General Fund. The sheriff shall be accountable, as in other cases, to the Escheator for money which by virtue of this section, shall come into the sheriff's hands.

Code 1852, § 1594; Code 1915, § 130; Code 1935, § 119; 12 Del. C. 1953, § 1107; 57 Del. Laws, c. 741, § 48B; 60 Del. Laws, c. 292, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1108. Return of writ of seizure.

(a) The writ prescribed in § 1106 of this title shall be duly returned to the Escheator, with an inventory and appraisalment of the goods and chattels seized and attached by virtue thereof, and an account of the sale.

(b) The Escheator shall immediately upon receiving the writ transmit a duly certified copy thereof, and of the return, inventory and appraisalment and account of sale to the Secretary of Finance and the State Treasurer.

Code 1852, §§ 1595, 1596; Code 1915, §§ 131, 132; Code 1935, §§ 120, 121; 12 Del. C. 1953, §§ 1108, 1109; 60 Del. Laws, c. 292, § 1.;

§ 1109. Lease, retention or sale of real property.

If, after hearing under this subchapter, the Court finds that real property has escheated to the State, the Escheator, subject to the approval of the Governor, may lease such property upon a reasonable rent therefor, or retain such property for the benefit and use of the State. If the real property is not leased or retained, the Escheator shall sell such property, at public auction, upon like public notice as required by law for the sale of lands under execution process.

Code 1852, § 1597; Code 1915, § 133; Code 1935, § 122; 12 Del. C. 1953, § 1110; 60 Del. Laws, c. 292, § 1.;

§ 1110. Conveyance of realty to purchaser after sale.

Immediately after sale under § 1109 of this title, the Escheator shall

certify the same to the Governor, who, on filing such certificate in the office of the Secretary of State, together with a receipt from the State Treasurer for the price of the lands, shall, by and under the great seal, grant the lands and tenements to the purchaser thereof, to hold to the purchaser, the purchaser's heirs and assigns forever.

Code 1852, § 1602; Code 1915, § 138; Code 1935, § 127; 12 Del. C. 1953, § 1115; 57 Del. Laws, c. 741, § 48B; 60 Del. Laws, c. 292, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1111. Nature of title of purchaser of realty.

The title conveyed by virtue of a deed under § 1110 of this title shall be subject to any reversion, remainder, lease, rent, mortgage or encumbrance of the lands to which they were respectively subject prior to escheat as determined by the Court of Chancery at the hearing; in default of presentment at the hearing, such claims shall forever be barred.

Code 1852, § 1603; Code 1915, § 139; Code 1935, § 128; 12 Del. C. 1953, § 1116; 60 Del. Laws, c. 292, § 1.;

§ 1112. Proceeds of sale.

The Escheator shall pay over the proceeds received from the sale or disposition of all escheated intestate property, real or personal, to the State Treasurer for deposit in the General Fund.

60 Del. Laws, c. 292, § 1.;

§ 1113. Claims to proceeds of sale.

Any person who did not participate in or receive actual notice of the hearing provided by § 1104 of this title shall have the right within 2 years of the date of sale of any property under this subchapter to file a claim by way of petition in the Court of Chancery, to all or any portion of the escheated property. If such claim is established and allowed by the Court, such person shall be entitled to receive from the State Treasurer, under a warrant for the same signed by the Secretary of Finance, all such proceeds as the State shall have received on the sale of such property or portion thereof, after all charges thereon are deducted, or all escheated property, real or personal, still held by the State, subject to paying all costs of the escheat.

Code 1852, §§ 1604, 1605; Code 1915, §§ 140, 141; Code 1935, §§ 129, 130; 12 Del. C. 1953, § 1117; 49 Del. Laws, c. 57, § 1; 57 Del. Laws, c. 741, § 48B; 60 Del. Laws, c. 292, § 1.;

§ 1114. Recovery of credits or property of the intestate not included in the Court's initial escheat order.

If any person, at the death of any intestate, shall be indebted to the intestate, or if any part of such estate, real or personal, was not mentioned and included in the Court's initial escheat order, be in the possession of any person, the same shall be recovered to the use of the State by such action as the case may require, in which proceedings the initial escheat order touching the estate of such intestate shall be admissible evidence to prove that the intestate died without heirs or known kindred.

Code 1852, § 1606; Code 1915, § 142; Code 1935, § 131; 12 Del. C. 1953, § 1118; 60 Del. Laws, c. 292, § 1.;

§ 1115. Expenses of Escheator.

The Escheator may, from time to time, draw a warrant upon the State Treasurer for sums necessary to pay the expenses of the enforcement of this subchapter, which warrants, when approved by the Secretary of Finance, shall be paid by the Treasurer out of the General Fund of the State.

Code 1935, § 133; 42 Del. Laws, c. 57, § 1; 12 Del. C. 1953, § 1120; 57 Del. Laws, c. 741, § 48B; 60 Del. Laws, c. 292, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1116. Conveyance of certain escheated real property previously owned by a religious body.

The Secretary of State shall convey to a properly organized corporation of this State whatever title the State may have in any real property which was formerly held by or for a religious body and which has or may have escheated provided that:

(1) The Secretary is satisfied that the grantee corporation is the proper successor to the body previously holding equitable or legal title to the property;

(2) A certified copy of the recorded certificate of incorporation of the grantee corporation is provided;

(3) Prior notice of any such proposed conveyance is given by registered mail to the record title holders where known; and

(4) Notice of such proposed conveyance is published in a newspaper of general circulation in the county where the property is situated each week for 3 weeks prior to the execution of the conveyance.

All expenses of such conveyance and notices shall be paid by the grantee corporation.

Code 1852, § 1587; Code 1915, § 123; Code 1935, § 112; 42 Del. Laws, c. 57, § 1; 12 Del. C. 1953, § 1101; 49 Del. Laws, c. 51; 60 Del. Laws, c. 292, § 1; 70 Del. Laws, c. 186, § 1.;

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§ 1130. Definitions.

As used in this subchapter:

“Banking organization” includes any organization, corporation or association organized and existing under Chapter 7, 15 or 17 of Title 5 or the corresponding provisions of statutes in effect prior to February 12, 1953, or any bank or credit union created under the laws of the United States or any state.

12 Del. C. 1953, § 1130; 50 Del. Laws, c. 507, § 1; 67 Del. Laws, c. 267, § 3; 70 Del. Laws, c. 298, § 1; 70 Del. Laws, c. 327, § 49.;

§ 1131. Deposit to General Fund.

(a) The State Escheator shall deposit into the General Fund all moneys or proceeds of property received pursuant to this subchapter.

(b) The payment of all claims, the right to which is established pursuant to this subchapter, shall be made from the General Fund upon voucher signed by the State Escheator.

12 Del. C. 1953, § 1131; 50 Del. Laws, c. 507, § 1; 57 Del. Laws, c. 741, § 48B; 60 Del. Laws, c. 598, § 2.;

§ 1132. [Reserved.]**§ 1140. Statutes of limitations not a bar.**

The expiration of any period of time specified by law during which an action or proceeding may be commenced or enforced to secure payment of a claim for money or recovery of property shall not prevent any money or property from being deemed abandoned property as defined in this subchapter, nor affect any duty to file a report required by this subchapter or to pay or deliver to the State Escheator any such abandoned property, and shall not serve as a defense in any action or proceeding by or on behalf of the State Escheator to compel the filing of any report or the payment or delivery of any abandoned property required by this subchapter or to enforce or collect any penalty provided by this subchapter.

12 Del. C. 1953, § 1140; 50 Del. Laws, c. 507, § 1.;

§ 1141. Escheator to maintain public record.

The State Escheator shall maintain a public record of all names and last known addresses of the person or persons appearing to be entitled to abandoned property paid or delivered to the State Escheator pursuant to this subchapter. Other identifying information set forth in any report

or record made or delivered to the State Escheator shall be retained by the State Escheator but shall be considered confidential and may be disclosed only in the discretion of the State Escheator. The State Escheator shall not reveal the amount of any abandoned property, except to a person who has presented satisfactory proof of an interest in or title to such property or except for purposes directly connected with the administration of this subchapter.

12 Del. C. 1953, § 1141; 50 Del. Laws, c. 507, § 1.;

§ 1142. Publication of abandoned property by State Escheator.

(a) In the month of October of each year the State Escheator shall publish in a daily newspaper of this State a statement of abandoned or unclaimed property or funds paid to the Escheator during the 12 months ending July 1 next preceding such publication which shall not have been paid to claimants and which shall not have been previously advertised under the provisions of § 1161, § 1172 or § 1183 of this title.

(b) Such statement shall be in such form and classified in such manner as the State Escheator shall determine, except that names of persons appearing to be entitled to any such abandoned property shall be listed in alphabetical order within each such classification.

(c) Such statement shall set forth:

(1) The names and last known addresses of all persons appearing from the records in the State Escheator's office to be entitled to receive such abandoned property consisting of money not less than \$10 in amount;

(2) The names and last known addresses of all persons appearing from the records in the State Escheator's office to be entitled to receive such abandoned property consisting of personal property other than money and which the State Escheator shall not have determined, as provided in § 1143 of this title, to be valueless or of such little value that a sale thereof would cost in excess of the probable proceeds therefrom;

(3) Where any such abandoned property consisted of personal property other than money and was converted into money pursuant to § 1143 of this title and such money amounts to \$10 or more, the names and last known addresses of the persons appearing from the records in the State Escheator's office to be entitled to receive the same;

(4) Such other information as the State Escheator may determine;
and

(5) A statement:

a. That a public record is maintained in the office of the State Escheator of all abandoned property in accordance with § 1141 of this title; and

b. That a claim for any such abandoned property should be filed with the State Escheator at the Escheator's office in the City of Wilmington.

(d) Notwithstanding the foregoing provisions of this section, the State Escheator may omit from such statement the name and last known address of any person where special circumstances make it desirable that such information be withheld.

12 Del. C. 1953, § 1142; 50 Del. Laws, c. 507, § 1; 68 Del. Laws, c. 122, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 298, § 4.;

§ 1143. Sale of personal property by State Escheator.

(a) All abandoned property, other than money, delivered to the State Escheator pursuant to this subchapter may be sold or disposed of at public auction to the highest bidder or in such manner and at such times as the State Escheator, in the Escheator's discretion, shall determine to be in the best interest of the State. In the case of stocks, bonds or other securities, disposition may be made by sale through a registered broker on a recognized securities exchange or over the counter market or, if there is no ready market for such security, by negotiation or public auction.

(b) The proceeds from the sale of any such abandoned property, less all costs incurred in connection with such sale, shall be held in the place of such property and any claimant for abandoned property shall be entitled only to the money so received, less lawful service charges.

(c) The State Escheator shall not be liable in any action for any act made in good faith pursuant to this section.

12 Del. C. 1953, § 1143; 50 Del. Laws, c. 507, § 1; 59 Del. Laws, c. 16, § 1; 67 Del. Laws, c. 245, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1144. Assumption of liability by the State; return of property erroneously paid to the State Escheator.

(a) The care and custody, subject only to the duty of conversion prescribed in § 1143 of this title, of all abandoned property paid to the State Escheator is assumed for the benefit of those entitled to receive the same and the State shall hold itself responsible for the payment of all

claims established thereto pursuant to law, less any lawful deductions, which cannot be paid from the General Fund.

(b) Any person, court, copartnership, unincorporated association or corporation making a payment of abandoned property to the State Escheator shall immediately and thereafter be relieved and held harmless from any or all liability for the property so paid and no action shall be maintained against them or it for:

(1) The recovery of abandoned property paid to the State Escheator pursuant to this subchapter or for interest thereon subsequent to the date of the report of such abandoned property to the State Escheator pursuant to this subchapter; and

(2) Damages alleged to have resulted from any such payment.

(c) Nothing in this section shall be construed to relieve any person, court, copartnership, unincorporated association or corporation from liability for:

(1) Any property not paid to the State Escheator;

(2) Damages for negligence or the mishandling of funds or property prior to the time such funds or property are paid to the State Escheator.

(d) Whenever it appears to the satisfaction of the State Escheator that because of some mistake of fact, error in calculation or erroneous interpretation of a statute any person has paid or delivered to the State Escheator, pursuant to any provision of this subchapter, any moneys or other property not required by this subchapter to be so paid or delivered, the Escheator shall have power, during the 6 years immediately succeeding such erroneous payment or delivery, to refund or redeliver such moneys or other property to such person; provided that such moneys or property shall not have been paid or delivered to a claimant or otherwise disposed of in accordance with this subchapter. Any such cash refund shall be paid from the General Fund without the deduction of any service charge. The State Escheator shall not be liable for any interest or other charge for the money or property so refunded or redelivered.

(e) Whenever, because of some mistake of fact, error in calculation or erroneous interpretation of a statute, any person pays or delivers to the State Escheator any moneys or other property not required by this subchapter to be so paid or delivered, such moneys or other property shall, for the purposes of this subchapter, be deemed to be abandoned property, unless and until refunded or redelivered by the State Escheator

to the person who paid or delivered the same.

12 Del. C. 1953, § 1144; 50 Del. Laws, c. 507, § 1; 60 Del. Laws, c. 598, § 6; 70 Del. Laws, c. 186, § 1.;

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§ 1145. Interest not to run after report of abandoned property.

Notwithstanding any other provision of law, no person entitled to or owner of abandoned property shall be entitled to receive interest on account of such abandoned property from and after the date a report of such abandoned property is made to the State Escheator pursuant to this subchapter whether or not the person was entitled to interest on such property prior to such date.

12 Del. C. 1953, § 1145; 50 Del. Laws, c. 507, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1146. Claims for abandoned property paid to the State; procedure for determination of claims; appeals.

(a) Claim may be filed with the State Escheator for any abandoned property amounting to over \$3 paid to the State Escheator pursuant to this subchapter.

(b) The State Escheator shall possess full and complete authority to determine all such claims and shall forthwith send written notice of such determination to the claimant. At any time within 4 months thereafter such claimant may apply for a hearing and determination of claim by the Tax Appeal Board. The procedure before the Tax Appeal Board for such hearings shall be the same as that provided for by § 329 of Title 30 and the Board shall have the same power to compel the attendance of witnesses and the production of evidence as is provided in § 330 of Title 30.

(c) Within 30 days after notice of a decision upon such hearing, the State Escheator or any claimant may appeal such decision to the Court of Chancery upon notice to all parties to the proceeding before the Tax Appeal Board and upon such other notice as the Court of Chancery may order.

(d) The Court of Chancery may make such rules as it may deem proper for the perfection, hearing and determination of such appeals.

12 Del. C. 1953, § 1146; 50 Del. Laws, c. 507, § 1; 57 Del. Laws, c. 718, § 18; 57 Del. Laws, c. 741, § 48C; 70 Del. Laws, c. 186, § 1.;

§ 1147. Payment by State Escheator.

Any claim which is allowed by, or ordered to be paid by, the State

Escheator pursuant to § 1146 of this title, together with such costs and disbursements as may be allowed by the Court or the Tax Appeal Board, shall be paid out of the General Fund and the State Escheator shall not be liable in any action for any claim paid in good faith.

12 Del. C. 1953, § 1147; 50 Del. Laws, c. 507, § 1; 57 Del. Laws, c. 741, § 48C; 60 Del. Laws, c. 598, §§ 4, 6; 70 Del. Laws, c. 186, § 1.;

§ 1148. Verification.

Any report required to be verified by this subchapter shall be verified if made by a person, by such person, if made by a partnership, by 1 of the members thereof, if made by an unincorporated association or private corporation, by 1 principal officer thereof if made by a public corporation, by the chief fiscal officer thereof and if made by a court, by a judge or the clerk of such court.

12 Del. C. 1953, § 1148; 50 Del. Laws, c. 507, § 1.;

§ 1149. Payment for publication.

Any amount paid by a person to a newspaper or newspapers for any publication of names as required by this subchapter may be charged equally against all abandoned property held or owing by such person at the time of such publication, except abandoned property of individual amounts of less than \$25.

12 Del. C. 1953, § 1149; 50 Del. Laws, c. 507, § 1.;

§ 1150. Designation of newspapers.

Any notice required by this subchapter shall be published in such newspapers as shall be designated by the State Escheator.

12 Del. C. 1953, § 1150; 50 Del. Laws, c. 507, § 1.;

§ 1151. Waiver of publication.

The State Escheator may waive the publication of any notice required by this subchapter, except a notice required by § 1142 of this title, whenever in the Escheator's opinion the cost of publishing such notice would be unreasonable in relation to the amount of abandoned property.

12 Del. C. 1953, § 1151; 50 Del. Laws, c. 507, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1152. Penalties and interest.

Repealed by 73 Del. Laws, c. 417, § 3, effective July 22, 2002, and effective for reports filed or required to be filed on or after July 22, 2002.

§ 1153. Penalty for false oath.

The making of a wilful false oath in any report required under this subchapter shall be perjury and punishable as such according to law.

12 Del. C. 1953, § 1153; 50 Del. Laws, c. 507, § 1.;

§ 1154. State Escheator to make regulations.

The State Escheator may make such rules and regulations as the Escheator may deem necessary to enforce this subchapter.

12 Del. C. 1953, § 1154; 50 Del. Laws, c. 507, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1155. Examination of records.

The State Escheator may at reasonable times and upon reasonable notice examine the records of any person or business association or organization to determine whether the person has complied with any provision of this chapter and may by summons require the attendance of any person having knowledge in the premises, and may take testimony and require proof material for the investigation, with the power to administer oaths to such person or persons; provided, however, that the State Bank Commissioner shall act on behalf of the State Escheator with regard to examinations of banking organizations. The State Escheator is authorized to reimburse the State Bank Commissioner for the cost of examinations undertaken on the Commissioner's behalf and may pay for such reimbursement out of custodian accounts held for the State Escheator. The State Escheator may disclose such information as the Escheator possesses to the State Bank Commissioner as may aid in the Commissioner's examination of any banking organization and may disclose any information received from the State Bank Commissioner as may be required:

(1) In conjunction with enforcement proceedings; or

(2) In summary form to the extent necessary for the proper disposition of the property.

Where the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the State Escheator may require the holder to report and pay to the State the

amount of abandoned or unclaimed property that should have been but was not reported that the State Escheator reasonably estimates to be due and owing on the basis of any available records of the holder or by any other reasonable method of estimation.

67 Del. Laws, c. 267, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 417, § 4.

§ 1156. Internal Review Procedure; Court of Chancery -- Jurisdiction.

(a) If, after examining any report required by this chapter and filed by or on behalf of a holder (as defined in § 1198 of this title) or after the conclusion of an examination of a holder, the Abandoned Property Audit Manager (hereinafter the "Audit Manager") determines that a holder has underreported abandoned or unclaimed property due and owing under this chapter, the Audit Manager shall mail a statement of findings and request for payment to the holder that filed, or on whose behalf the report was filed, or that was the subject of an examination. Sixty days after the date on which the Audit Manager mails a statement of findings and request for payment, it shall constitute the Audit Manager's final determination of the amount of the holder's liability, including interest and penalties, if any, for the abandoned or unclaimed property specified in the statement of findings and request for payment, excepting only the property types and amounts included in the statement of findings and request for payment as to which the holder files a timely protest with the Audit Manager pursuant to subsection (b) of this section. The State Escheator may thereafter enforce any final determination in accordance with subsection (k) of this section.

(b) Within 60 days after the date of the mailing of a statement of findings and request for payment under subsection (a) of this section the holder may file with the Audit Manager a written protest of the statement of findings and request for payment in which the holder shall set forth the property type or types and amount of abandoned or unclaimed property protested, and the specific grounds upon which the protest is based. The protest is intended to allow the holder to have its objections to the final request for payment reconsidered in the first instance internally within the Department of Finance by the Audit Manager as a means of expediting resolution of any dispute. If the holder elects to file a protest and to have its objections to the final request for payment reconsidered internally within the Department of Finance, as provided by subsections (b) through (k) of this section, the holder shall exhaust these administrative remedies before initiating any proceeding in any Delaware court of competent jurisdiction.

(c) The only matters that the Audit Manager shall reconsider on a protest are those property types, amounts and issues related to the examination that are set out in the written protest of the holder. The holder shall remit with the protest any abandoned or unclaimed property liability attributable to property types for which payment is requested in the statement of findings and request for payment that are not protested and shall also remit with the protest the amount of abandoned or unclaimed property liability, if any, that the holder believes to be due and owing with respect to the property types or liability that are the subject of the protest. The pendency of a protest shall not prevent the accrual of interest on any protested amount finally found to be due and owing. Holders may remit the entire amount in the statement of findings and request for payment in order to prevent the accrual of additional interest without waiving any rights for reconsideration or review of protested amounts under subsections (a) through (j) of this section, and such remittance shall be subject to refund, without interest, to the extent not finally determined to be due and owing. Failure to remit amounts required by this subsection shall result in termination of the protest and the State Escheator may thereafter enforce any final determination in accordance with subsection (k) of this section.

(d) The holder may submit additional documentation and written submissions to the Audit Manager in support of the protest, provided, however, that such additional documentation and written submissions shall be made no later than 30 days following receipt of the holder's protest. The Audit Manager may convene meetings with the holder to facilitate review of the statement of findings and request for payment and the protest thereof.

(e) The Audit Manager shall, within 60 days of the receipt of the holder's protest, or if additional documentation is submitted, no later than 90 days after the receipt of the holder's protest, make a written determination on the protest setting forth the Audit Manager's basis of any determination that is adverse, in whole or in part, to the holder, provided, however, that the time periods set forth in this subsection shall be subject to extension by the Audit Manager for good cause, but in no event shall any extension hereunder exceed 540 days from the day the Audit Manager received the holder's protest. The Audit Manager shall mail the written determination on the protest to the holder by certified or registered mail at the address set forth in the holder's protest.

(f) Thirty days after the date on which it is mailed, the determination by the Audit Manager of a holder's protest shall be final, unless within that time a holder files a notice of appeal with the Secretary of Finance. If the holder does not file a timely notice of appeal with the Secretary of Finance, the State Escheator may enforce any final determination

in accordance with subsection (k) of this section. The notice of appeal shall set forth the holder's name, mailing address, telephone number, the name of the person or persons representing the holder, the mailing address and telephone number of such persons and the matters in which the holder asserts that the Audit Manager erred in the determination on the protest of the holder.

(g) After receipt of a holder's written notice of appeal, the Secretary of Finance shall as soon as practicable, but in no event later than 90 days after receipt, appoint a person who is not otherwise currently employed by the Department of Finance to act as an independent reviewer to consider the appeal of the Audit Manager's findings and make a written report to the Secretary of Finance. The independent reviewer shall be a former member of the Delaware judiciary, an individual who has been previously appointed and served as a master of any Delaware court, or an attorney licensed in the State who is qualified by experience or training to serve.

(h) The appeal to the independent reviewer is de novo on the record. The record on the appeal to the independent reviewer shall be based solely upon documents submitted during the course of the examination to the Audit Manager or a person who conducted an examination on the Audit Manager's behalf, other nonprivileged materials prepared by or for the Audit Manager during the conduct of an examination, expert reports submitted to the Audit Manager by the person filing a protest, other nonprivileged materials and expert reports prepared by or for the Audit Manager during the consideration of a protest.

(i) The independent reviewer shall hold an oral hearing on the appeal, which shall be held, absent agreement of the parties, within 90 days after the date on which the Secretary of Finance appoints the independent reviewer pursuant to subsection (g) of this section. At least 5 days prior to the oral hearing date, or at such other time ordered by the independent reviewer, the holder and Audit Manager shall each submit to the independent reviewer and each other a brief containing argument and referencing supporting documentation from the record before the Audit Manager or an explanation as to why such supporting documentation is not available. A decision in writing by the independent reviewer setting forth findings of fact and conclusions of law shall be submitted by the independent reviewer to the Secretary of Finance within 90 days from the date of the conclusion of the oral hearing or the completion of any post-hearing briefing requested by the independent reviewer, whichever is later. The independent reviewer shall assess costs, including the independent reviewer's fee, against a party or between the parties in the independent reviewer's discretion.

(j) The Secretary of Finance may adopt or reject the independent reviewer's determination in whole or in part. If the Secretary of Finance modifies or rejects, in whole or in part, the determination of the independent reviewer, the Secretary of Finance shall issue a decision in writing setting forth the basis of any rejection or modification of the determination of the independent reviewer. Within 60 days of the receipt by the Secretary of Finance of the independent reviewer's decision, a copy of the Secretary of Finance's determination, if any along with, the independent reviewer's written decision shall be sent to the holder by certified or registered mail at the address set forth in the holder's notice of appeal. The determination of the Secretary of Finance as to those liabilities that are the subject of the appeal shall be final as to the Department of Finance, and amounts determined to be due and owing shall be subject to collection by the State Escheator under subsection (k) of this section below if unpaid after the review. The holder may, within 30 days after the Secretary's written decision was mailed, appeal the Secretary's determination to the Court of Chancery. The Court's review shall be limited to whether the Secretary's determination was supported by substantial evidence on the record. If the Court determines that the record is insufficient for its review, it shall remand the case to the agency for further proceedings on the record.

(k) If any person refuses to pay or deliver property, including penalty or interest thereon, to the State Escheator as required by this chapter, the State Escheator may bring an action in the Court of Chancery in the county wherein the holder resides or has a principal place of business (or if none such exists, in New Castle County) to enforce such payment or delivery.

(l) Whenever a holder disputes whether reasonable cause exists for abating penalty or interest determined by the State Escheator to be due under this chapter, such holder may bring an action in the Court of Chancery for the purpose of showing an abuse of discretion by the State Escheator in making the determination that penalty or interest was due.

68 Del. Laws, c. 122, § 7; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 417, § 1.

§ 1157. Presumption of abandonment of personal property held by federal government.

(a) All tangible personal property or intangible personal property, including choses in action in amounts certain, and all debts owed or entrusted funds or other property held by the federal government, or any federal agency, or any officer or appointee thereof, shall be

presumed abandoned in this State if the last known address of the owner of the property is in this State and the property has remained unclaimed for 5 years.

(b) This section shall apply to all abandoned property held by the federal government, or any federal agency, or any officer or any appointee thereof, as of July 8, 1991, or at any time thereafter, regardless of when such property became presumptively abandoned.

68 Del. Laws, c. 122, § 14.;

§ 1158. Limitations.

(a) The State Escheator, as soon as is practicable after receipt of any report required by this chapter, shall examine it to determine if it is correct. If the Escheator finds that the report is not correct, the Escheator shall notify the holder in writing by certified or registered mail of the amount of any underreported abandoned or unclaimed property due and owing. Notice of the proposed deficiency in payment shall be mailed to the holder within 3 years from the date the report was filed. A report filed before the due date shall be deemed to have been filed on the due date for purposes of this section. No suit to enforce the payment of a deficiency in payment of abandoned or unclaimed property shall be brought under § 1156 of this title against a holder unless the notice of deficiency in payment is mailed to the holder within the 3-year period provided in this subsection. In the case of an omission of abandoned or unclaimed property from a report having a value in excess of 25% of the amount of abandoned or unclaimed property disclosed in a report, a notice of deficiency in payment may be mailed to the holder within 6 years from the date the report was filed.

(b) If no report is filed, or if a false or fraudulent report is filed with the intent to evade the obligation to pay over abandoned property, a notice of deficiency in payment may be mailed to the holder at any time.

(c) If the holder shall file an amended report changing or correcting the amount of any abandoned or unclaimed property previously reported, a notice of deficiency in payment may be mailed to the holder at any time within 2 years from the date the amended report is filed.

(d) Where, before the expiration of time prescribed in this section for the mailing of a notice of deficiency in payment, both the Escheator and the holder have consented in writing to the extension of the time within which a notice of deficiency in payment may be mailed, a notice of deficiency may be mailed at any time prior to the expiration of the time agreed upon. The time agreed upon may be extended by subsequent

agreements in writing made before the expiration of the time previously agreed upon.

(e) The running of the period of limitations provided for in this section for the mailing of a notice of deficiency in payment shall, in a case under Title 11 of the United States Code, be suspended for the period during which the Escheator is prohibited by reason of such case from mailing a deficiency in payment plus 60 days.

73 Del. Laws, c. 417, § 1.;

§ 1159. Penalties.

(a) In the case of the failure to file any report required by this chapter on or before the due date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not wilful neglect, there shall be added to the amount of abandoned or unclaimed property required to be shown on the report 5% of the amount thereof if the failure is not for more than 1 month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not to exceed 50% in the aggregate. For purposes of this section the amount of abandoned or unclaimed property required to be shown on any report shall be reduced by the amount of property which is paid on or before the date prescribed for payment of the abandoned or unclaimed property.

(b) In the case of the failure to pay the amount of abandoned or unclaimed property required to be shown on any report required by this chapter on or before the due date prescribed for the payment of such property (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not wilful neglect, there shall be added to the amount of such property required to be shown on any report 0.5% of the amount of such property if the failure is for not more than 1 month, with an additional 0.5% for each additional month or fraction thereof during which such failure continues, not to exceed 25% in the aggregate. For purposes of this subsection, the amount of property shown on any report shall be reduced by the amount of any property which is paid on or before the beginning of the month for which a calculation is made under this subsection.

(c) If any part of a deficiency in payment of abandoned or unclaimed property required to be shown on any report is due to fraud, there shall be added to the property required to be shown on the report an amount equal to 75% of the portion of the deficiency in payment which is attributable to fraud. The penalty prescribed by this section shall apply only in cases where a report of abandoned or unclaimed property

is filed and only to that part of the deficiency in payment the Escheator establishes is attributable to fraud.

(d) Interest at .5% per month on outstanding unpaid amounts, including penalty shall accrue from the date the amounts or property were due under this subchapter until paid. Interest due in accordance with this subsection shall in no event exceed 50% of the amount required to be paid; provided, however, that penalties under subsection (a), (b) or (c) of this section shall not be deemed to be interest for purposes of this subsection.

12 Del. C. 1953, § 1207; 58 Del. Laws, c. 426, § 12; 63 Del. Laws, c. 311, § 3; 68 Del. Laws, c. 122, § 6; 73 Del. Laws, c. 417, § 2.;

§ 1160. Abandoned property defined.

(a) The following property shall be deemed abandoned property:

(1) Any legacy, residue of intestate personal estate, distributive share or trust fund paid into the Court of Chancery by any executor, administrator or trustee because the person entitled thereto was absent from the State, unknown or incompetent to receive the same or because the shares of the persons entitled to receive the same were unknown and as to which no action has been taken in any proceeding in the Court of Chancery to recover the same within a period of 5 years; provided, however, that if the Chancellor or Vice-Chancellor shall be of the opinion that the person entitled to any funds deposited in or held by the Court of Chancery is living and intends to claim such funds when able, but is prevented from doing so by reasons beyond the person's control, the Chancellor or Vice-Chancellor shall so certify to the State Escheator in lieu of the report otherwise required by this subchapter and such funds shall not be deemed abandoned in any year in which such certification is made;

(2) Any money or other property held by the Court of Chancery, on account of the receivership or creditors' composition of any person or organization, for distribution to a creditor, owner or shareholder and as to which no claim or request for payment has been made by the person appearing to be entitled thereto within 5 years after any order discharging the receiver or trustee; provided, however, that if the Chancellor or Vice-Chancellor shall be of the opinion that the person entitled to any funds deposited in or held by the Court of Chancery is living and intends to claim such funds when able, but is prevented from doing so by reasons beyond the person's control, the Chancellor or Vice-Chancellor shall so certify to the State Escheator in lieu of the report otherwise required by this subchapter and such funds shall not be deemed abandoned in any year in which such certification is made.

(b) Any abandoned property held or owing by any court or by the clerk of any court to which or to whom the right to receive the same is established to the satisfaction of such court or clerk shall cease to be abandoned.

(c) Any abandoned property defined by this section which, under this section, would have become abandoned prior to January 1, 1956, shall be deemed abandoned on January 1, 1956.

12 Del. C. 1953, § 1160; 50 Del. Laws, c. 507, § 1; 68 Del. Laws, c. 122, §§ 8, 9; 70 Del. Laws, c. 186, § 1.

§ 1161. Publication of list of abandoned property.

(a) On or before February 1 in each year, any court or any clerk of a court having abandoned property in the court's or the clerk's possession shall cause to be published a notice entitled:

"NOTICE OF NAMES OF PERSONS APPEARING AS OWNERS OF CERTAIN UNCLAIMED PROPERTY HELD BY (name of court or title of officer)."

(b) As to all abandoned property payable in New Castle County, such notice shall be published at least once in a daily newspaper published in said County. As to all abandoned property payable in Kent County or Sussex County, such notice shall be published at least once in a newspaper published at least weekly in the County in which said abandoned property is payable.

(c) Such notice shall be classified as the State Escheator shall prescribe and shall set forth:

(1) The names and last known addresses, in alphabetical order, of all persons appearing to be entitled to any such abandoned property as of January 1 next preceding amounting to \$25 or more, except the names of persons appearing to be the owners of abandoned property which since such date has ceased to be abandoned. With the consent of the State Escheator, the name and last known address of any person may be omitted from such notice where special circumstances make it desirable that such information be withheld;

(2) Such other information as the State Escheator may require;
and

(3) A statement:

a. That a list of the names contained in such notice is on file and open to public inspection at a place designated therein;

b. That such unclaimed moneys or other property will be paid or delivered by the court or officer on or before March 31 to persons establishing to the court's or officer's satisfaction their right to receive the same; and

c. That in the succeeding month of April and on or before April 10, such unclaimed moneys or other property still remaining will be paid or delivered to the State Escheator and that the court or officer shall thereupon cease to be liable therefor.

12 Del. C. 1953, § 1161; 50 Del. Laws, c. 507, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1162. Payment of abandoned property; presumption as to last known address.

(a) In such succeeding month of April, and on or before April 10, the Court of Chancery shall pay or deliver to the State Escheator all property held by it and which was abandoned as specified in § 1160(a) (1) of this title, as of January 1 next preceding.

(b) In such succeeding month of April, and on or before April 10, the Court of Chancery shall pay or deliver to the State Escheator all abandoned property specified in § 1160(a)(2) of this title, which was so abandoned as of January 1 next preceding.

(c) With respect to items of property of a value of less than \$25 deemed abandoned under § 1160 of this title, the last known address of any person appearing to be entitled to such property shall be presumed to be an address within this State. This presumption may be rebutted by filing a claim with the State Escheator pursuant to § 1146 of this title.

12 Del. C. 1953, § 1162; 50 Del. Laws, c. 507, § 1; 58 Del. Laws, c. 451, § 1.;

§ 1163. Report to accompany payment.

Each such payment of abandoned property, pursuant to § 1162 of this title, shall be accompanied by a verified written report classified as the State Escheator shall prescribe, setting forth:

(1) The names and last known addresses, if any, of the persons appearing to be entitled to receive any such abandoned property of the value of \$25 or more;

(2) The title of any proceeding relating to such abandoned property; and

(3) Such other identifying information as the State Escheator may require.

12 Del. C. 1953, § 1163; 50 Del. Laws, c. 507, § 1; 58 Del. Laws, c. 451, § 2.;

§ 1170. Abandoned property defined.

(a) The following unclaimed property held or owing by banking organizations shall be deemed abandoned property:

(1) Any amounts due on deposits or any amounts to which a shareholder of a savings and loan association, building and loan association or credit union is entitled held or owing by a banking organization which shall have remained unclaimed for 5 years by the person or persons appearing to be entitled thereto, including any interest or dividends credited thereon, excepting:

a. Any such amount which has been reduced or increased, exclusive of dividend or interest payment, within 5 years; or

b. Any such amount which is represented by a passbook not in the possession of the banking organization which has been presented for entry of dividend or interest credit within 5 years; or

c. Any such amount with respect to which the banking organization has on file written evidence received within 5 years that the person or persons appearing to be entitled to such amounts had knowledge thereof; or

d. Any such amount payable only at or by a branch office located in a foreign country or payable in currency other than United States currency; or

e. Any amount held or owing by the banking organization as agent or as trustee of an express trust (active or passive) for the purpose of making payment to holders of or in respect of stocks, bonds or other securities of a governmental or other public issuer or of a corporation, association or joint stock company, other than a corporation, association or joint stock company which shall have discontinued the conduct of its business or the corporate existence of which shall have terminated, without the right to receive such amount having passed to a successor or successors.

(2) Any amount held or owing by a banking organization for the payment of a negotiable instrument or a certified check whether negotiable or not on which such organization is directly liable, which instrument shall have been outstanding for more than 5 years from

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the date it was payable or from the date of its issuance, if payable on demand; provided, however, that this paragraph shall not apply:

a. To any negotiable instrument payable outside the continental limits of the United States; or

b. To any instrument payable in currency other than United States currency; or

c. To any negotiable instrument issued to pay out any amount held or owing by the banking organization as agent or as trustee of an express trust (active or passive) for the purpose of making payment to holders of or in respect of stocks, bonds or other securities of a governmental or other public issuer or of a corporation, association or joint stock company which shall have discontinued the conduct of its business or the corporate existence of which shall have terminated without the right to receive such amount having passed to a successor or successors.

(3) Any surplus amounts arising from a sale by a banking organization of the contents of a safe or box, pursuant to law.

(4) Any amount representing a dividend or other payment received by a banking organization or its nominee as the record holder of any stock, bond or other security of any corporation, association or joint stock company to which amount an unknown person (except a person entitled to such dividend or other payment upon the surrender of other outstanding securities) is entitled and which shall have remained unclaimed by the person entitled thereto for 5 years after receipt thereof by such banking organization or its nominee.

(5) Any amount which shall have become payable by a banking organization (other than a foreign banking corporation) to a holder or owner of its capital stock and which shall have remained unclaimed for 5 years by the person or persons appearing to be entitled thereto.

(b) Any abandoned property held or owing by a banking organization to which the right to receive the same is established to the satisfaction of such banking organization shall cease to be deemed abandoned.

(c) Any abandoned property defined by this section which, under this section, would have become abandoned prior to June 30, 1956, shall be deemed abandoned on June 30, 1956.

12 Del. C. 1953, § 1170; 50 Del. Laws, c. 507, § 1; 65 Del. Laws, c. 140, § 1; 66 Del. Laws, c. 379, § 1.



§ 1171. Annual report of abandoned property.

(a) On or before November 10 in each year every banking organization shall make a verified written report to the State Escheator which shall contain a true and accurate statement, as of June 30 next preceding, of all abandoned property specified in § 1170 of this title, held owing by it.

(b) Such report shall, with respect to amounts specified in § 1170(a) (1) of this title which are abandoned property, set forth:

(1) The name and last known address, if any, of the person or persons appearing from the records of such banking organization to be the owner of any such abandoned property;

(2) The amount appearing from such records to be due such person or persons;

(3) The date of the last transaction with respect to such abandoned property if such date is subsequent to December 31, 1909;

(4) The nature and identifying number, if any, of such abandoned property; and

(5) Such other identifying information as the State Escheator may require.

(c) Such report shall, with respect to amounts specified in § 1170(a) (2) of this title which are abandoned property, set forth:

(1) The name and last known address, if any, of the person or persons appearing from the records of such banking organization to be entitled to receive such abandoned property;

(2) A description of such abandoned property including identifying numbers, if any, and the amount appearing from such records to be due or payable;

(3) The amount of any interest or other increment due thereon;

(4) The date such abandoned property was payable or demandable;

(5) The amount and identifying number of any such instrument where the payee thereof is unknown to the banking organization; and

(6) Such other identifying information as the State Escheator may require.

(d) Such report shall, with respect to amounts specified in § 1170(a) (3) of this title which are abandoned property, set forth:

(1) The name and last known address, if any, of the person or persons appearing from the records of such banking organization to be the owner of any such abandoned property;

(2) The articles sold and price obtained therefor;

(3) Such other information as the State Escheator may require.

(e) Such report shall, with respect to amounts specified in § 1170(a) (4) of this title which are abandoned property, set forth:

(1) The name and last known address, if any, of the person or persons appearing from the records of such banking organization to be the owner of any such abandoned property;

(2) The amount appearing from such records to be due such person or persons;

(3) The date when such property was received by the banking organization and the date when it became payable to the owner;

(4) A description of the stock or security on account of which such property was received;

(5) Such other identifying information as the State Escheator may require.

(f) Such report shall, with respect to amounts specified in § 1170(a) (5) of this title which are abandoned property, set forth:

(1) The name and last known address, if any, of the person or persons appearing from the records of such banking organization to be the owner of any such abandoned property;

(2) The amount appearing from such records to be due such person or persons;

(3) The date when such property became payable to the said owner;

(4) A description of the capital stock on account of which the said property is payable; and

(5) Such other identifying information as the State Escheator may require.

(g) Such report shall be in such form as the State Escheator may

prescribe. All names of persons appearing in the section of such report relating to deposits, appearing to be the owners thereof, shall be listed in alphabetical order. Abandoned property other than deposits listed in such report shall be classified in such manner as the State Escheator may prescribe and names of persons appearing to be entitled to such abandoned property appearing in such report shall be listed alphabetically within each such classification.

(h) In case any banking organization shall on June 30 in any year neither hold nor owe any abandoned property specified in § 1170 of this title, it shall on or before November 10 next succeeding make a verified written report to the State Escheator so stating.

12 Del. C. 1953, § 1171; 50 Del. Laws, c. 507, § 1; 50 Del. Laws, c. 628, § 1; 77 Del. Laws, c. 417, § 5.;

§ 1172. Publication of list of abandoned property.

(a) A minimum of 60 days prior to making a report of abandoned property and remitting payment pursuant to §§ 1171 and 1173 of this title, such banking organization shall cause to be published a notice entitled:

“NOTICE OF NAMES OF PERSONS APPEARING AS OWNERS OF CERTAIN UNCLAIMED PROPERTY HELD BY (name of banking organization).”

(b) For all abandoned property payable in New Castle County, such notice shall be published at least twice in a daily newspaper published in said County. For all abandoned property payable in Kent County or Sussex County, such notice shall be published at least once in a newspaper published at least weekly in the County in which said abandoned property is payable.

(c) Such notice shall, in accordance with the classification prescribed by the State Escheator for the report pursuant to § 1171 of this title, set forth:

(1) The names and last known addresses, which were in such report, of all persons appearing to be entitled to any such abandoned property amounting to \$25 or more; provided, however, that with the consent of the State Escheator the name and last known address of any person may be omitted from such notice where special circumstances make it desirable that such information be withheld. Such names shall be listed in alphabetical order. If, however, such banking organization has reported abandoned property payable in more than 1 county, the names shall be listed alphabetically for each such county and such notice

shall include only the names of the persons appearing to be entitled to abandoned property payable in such county;

(2) Such other information as the State Escheator may require; and

(3) A statement:

a. That such unclaimed moneys or other property will be paid or delivered by it on or before the succeeding October 31 to persons establishing to its satisfaction their right to receive the same; and

b. That in the succeeding month of November, and on or before November 10, such unclaimed moneys or other property still remaining will be paid or delivered to the State Escheator and that it shall thereupon cease to be liable therefor.

12 Del. C. 1953, § 1172; 50 Del. Laws, c. 507, § 1; 77 Del. Laws, c. 417, §§ 6, 7.;

§ 1173. Payment of abandoned property.

(a) In such succeeding month of November, and on or before November 10, every banking organization shall pay or deliver to the State Escheator all abandoned property specified in such report, excepting such abandoned property as since the date of such report shall have ceased to be abandoned.

(b) Such payment shall be accompanied by a statement setting forth such information as the State Escheator may require relative to such abandoned property as shall have ceased to be abandoned.

12 Del. C. 1953, § 1173; 50 Del. Laws, c. 507, § 1.;

§ 1174. Abandoned property held by the State Bank Commissioner after receivership.

(a) All amounts held by the State Bank Commissioner as receiver of a banking organization, pursuant to § 131 of Title 5, which shall be payable to depositors of such banking organization and which shall not have been claimed and paid within 4 years after receipt by the State Bank Commissioner, shall be deemed abandoned property.

(b) Any such abandoned property held by the State Bank Commissioner to which the right to receive the same is established while in the Commissioner's hands shall cease to be deemed abandoned.

12 Del. C. 1953, § 1174; 50 Del. Laws, c. 507, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1175. Payment of abandoned property after receivership.

(a) Not later than February 1 in each year the State Bank Commissioner shall pay to the State Escheator all such abandoned property held by the Commissioner which shall have become abandoned property at any time prior to the July 1 next preceding, excepting such abandoned property as since such July 1 shall have ceased to be abandoned.

(b) Such payment shall be accompanied by a statement signed by the State Bank Commissioner setting forth the name and last known address of and the amount owing to each person appearing to be the owner of any such abandoned property or, if the name is unknown, the nature and identifying number of the indebtedness and the name of the banking organization or foreign banking corporation from which such abandoned property was received together with such other identifying information as the State Escheator may require.

12 Del. C. 1953, § 1175; 50 Del. Laws, c. 507, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1176. Reimbursement for instruments paid.

Any banking organization which has paid to the State Escheator abandoned property held or owing for the payment of a negotiable instrument or a certified check may make payment to the person entitled thereto, upon presentation of the instrument by such person, and shall thereby be entitled to reimbursement of the amount paid to the State Escheator. Any issuer of money orders and traveler's checks who has paid to the State Escheator abandoned property held or owing for the payment of a money order or traveler's check may make payment to the person entitled thereto and shall thereby be entitled to reimbursement of the amount paid to the State Escheator upon proof of such payment in the form of the paid instrument, or in the absence of the paid instrument, the agreement of the issuer to hold harmless and indemnify the State and its State Escheator from any and all claims with regard to such instrument. Such reimbursement shall be made by the State Escheator after audit of a claim of the banking organization without the deduction of any service or other charge.

12 Del. C. 1953, § 1176; 50 Del. Laws, c. 507, § 1; 58 Del. Laws, c. 275, § 2.;

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§ 1180. Scope.

(a) This subchapter shall apply to unclaimed funds, as defined in § 1181 of this title, of any life insurance company doing business in this State where the last known address, according to the records of such company, of the person entitled to such funds is within this State; provided that, if a person other than the insured or annuitant be entitled to such funds and no address of such person be known to such company or if it be not definite and certain from the records of such company what person is entitled to such funds, then in either event it shall be presumed for the purposes of this subchapter that the last known address of the person entitled to such funds is the same as the last known address of the insured or annuitant according to the records of such company.

(b) This subchapter shall also apply to unclaimed funds, as defined in § 1181 of this title, of any life insurance company doing business in this State where the last person entitled to any such fund is or was a Delaware corporation and such corporation abandoned, disclaimed or otherwise relinquished all right, title and interest to such funds. This subchapter shall also apply where such corporation terminated or cancelled any life or endowment insurance policy or annuity contract, or permitted any life or endowment insurance policy or annuity contract to be terminated or cancelled, and such funds resulting from any policy or contract to which the corporation would otherwise have been entitled accrued or became due and payable after such cancellation or termination.

12 Del. C. 1953, § 1180; 50 Del. Laws, c. 568, § 1; 59 Del. Laws, c. 278, §§ 1, 2.;

§ 1181. Definitions.

The term "unclaimed funds" as used in this subchapter means and includes all moneys held and owing by any life insurance company doing business in this State which shall have remained unclaimed and unpaid for 5 years or more after it is established from the records of such company that such moneys became due and payable under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the prior death of the insured shall be deemed to be matured and the proceeds thereof shall be deemed to be "due and payable" within the meaning of this subchapter if such policy is in force when the insured shall have attained the limiting age under the mortality table on which the reserve is based. Moneys otherwise admittedly due and payable shall be deemed to be "held and owing" within the meaning of this subchapter although the policy or contract shall not have been

surrendered as required.

12 Del. C. 1953, § 1181; 50 Del. Laws, c. 568, § 1; 66 Del. Laws, c. 379, § 2.;

§ 1182. Annual report of unclaimed funds.

(a) Every such life insurance company shall on or before December 20 of each year make a report in writing to the State Escheator of all unclaimed funds, as defined in § 1181 of this title, held and owing by it on December 31 next preceding; provided, however, such report shall not be required to include amounts of less than \$5.00 which on February 29, 1956, shall have been unclaimed and unpaid for more than 10 years or amounts which have been paid to another state or jurisdiction prior to said date.

(b) Such report shall be signed and sworn to by an officer of such company and shall set forth:

(1) In alphabetical order the full name of the insured or annuitant, the last known address according to the company's records and the policy or contract number;

(2) The amount appearing from the company's records to be due on such policy or contract, except that amounts under \$50 each may be reported in the aggregate;

(3) The date such unclaimed funds became payable;

(4) The name and last known address of each beneficiary or other person who, according to the company's records, may have an interest in such unclaimed funds; and

(5) Such other identifying information as the State Escheator may require.

12 Del. C. 1953, § 1182; 50 Del. Laws, c. 568, § 1; 59 Del. Laws, c. 20, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 417, § 8.;

§ 1183. Publication of list of unclaimed funds.

(a) On or before the first day of September prior to the making of such reports under § 1182 of this title, every such life insurance company shall cause to be published notices based on the information contained in such reports and entitled:

"NOTICE OF CERTAIN UNCLAIMED FUNDS HELD AND OWING BY LIFE INSURANCE COMPANIES."

(b) For all unclaimed funds payable to a person appearing to be entitled to such funds whose last known address is located in New Castle County, such notice shall be published at least twice in a daily newspaper published in that County. For all unclaimed funds payable where such last known address is located in Kent County or Sussex County, such notice shall be published at least once in a newspaper published at least weekly in the County in which unclaimed funds are payable. For all unclaimed funds payable to corporations as provided in § 1180(b) of this title, notice shall be published in the county of the last known address of the corporation's registered agent in the manner provided in this section.

(c) Each such notice shall set forth in alphabetical order the names of the insureds or annuitants under policies or contracts where the last known address of the person appearing to be entitled to such funds is in the county of publication, together with:

(1) The amount reported due and the date it became payable;

(2) The name and last known address of each beneficiary or other person who, according to the company's reports, may have an interest in such unclaimed funds; and

(3) The name and address of the company.

The notice shall also state that such unclaimed funds will be paid by the company to persons establishing to its satisfaction before the following December 1 their right to receive the same and that not later than the following December 20 such unclaimed funds still remaining will be paid to the State Escheator who shall thereafter be liable for the payment thereof.

(d) Publication as required by this section may be waived in the discretion of the State Escheator where the amount involved in a particular policy or contract does not exceed \$50.

12 Del. C. 1953, § 1183; 50 Del. Laws, c. 568, § 1; 59 Del. Laws, c. 278, § 3; 77 Del. Laws, c. 417, § 9.;

§ 1184. Payment for publication.

Any amounts paid by a life insurance company to newspapers for any publication of names as required by this subchapter may be charged against all unclaimed funds held or owing by such life insurance company at the time of such publication.

12 Del. C. 1953, § 1184; 50 Del. Laws, c. 568, § 1.;

§ 1185. Payment to State Escheator.

(a) All unclaimed funds contained in the report required to be filed by § 1182 of this title, excepting those which have ceased to be unclaimed funds, less the amount paid for publication under § 1184 of this title, shall be paid over to the State Escheator with the annual report on or before December 20.

(b) The State Escheator shall have the power, for cause shown, to extend for a period of not more than 1 year the time within which a life insurance company shall file any report and in such event the time for publication and payment required by this subchapter shall be extended for a like period.

12 Del. C. 1953, § 1185; 50 Del. Laws, c. 568, § 1; 77 Del. Laws, c. 417, § 10.;

§ 1186. Custody of unclaimed funds in State; insurers indemnified.

Upon the payment of such unclaimed funds to the State Escheator, the State shall assume, for the benefit of those entitled to receive the same and for the safety of the money so paid, the custody of such unclaimed funds, and the life insurance company making such payment shall immediately and thereafter be relieved of and held harmless by the State from any and all liability for any claim or claims which exist at such time with reference to such unclaimed funds or which thereafter may be made or may come into existence on account of or in respect to any such unclaimed funds.

12 Del. C. 1953, § 1186; 50 Del. Laws, c. 568, § 1.;

§ 1187. Reimbursement for claims paid by insurers.

Any life insurance company which has paid moneys to the State Escheator pursuant to this subchapter may make payment to any person appearing to such company, in accordance with its customary rules and regulations governing the payment of claims, to be entitled thereto and upon proof of such payment the State Escheator shall forthwith reimburse such company for such payment out of the General Fund of the State.

12 Del. C. 1953, § 1187; 50 Del. Laws, c. 568, § 1; 59 Del. Laws, c. 148, § 1.;

§ 1188. Determination and review of claims.

(a) Any person claiming to be entitled to unclaimed funds paid to

the State Escheator may file a claim at any time with such official. The State Escheator shall possess full and complete authority to accept or reject any such claim. If the Escheator rejects such claim or fails to act thereon within 90 days after receipt of such claim, the claimant may within 4 months thereafter apply for a hearing and determination of the claim by the Tax Appeal Board. The procedure before the Tax Appeal Board for such hearing shall be the same as that provided for by § 329 of Title 30 and the Board shall have the same power to compel the attendance of witnesses and the production of evidence as is provided in § 330 of Title 30.

(b) Within 30 days after notice of a decision upon such hearing, the State Escheator or any claimant may appeal such decision to the Court of Chancery, upon notice to all parties to the proceedings before the Tax Appeal Board, and upon such other notice as the Court of Chancery may order.

(c) The Court of Chancery may make such rules as it may deem proper for the perfection, hearing and determination of such appeals.

12 Del. C. 1953, § 1189; 50 Del. Laws, c. 568, § 1; 57 Del. Laws, c. 718, § 19; 57 Del. Laws, c. 741, § 48C; 70 Del. Laws, c. 186, § 1.;

§ 1189. Payment of allowed claims.

Any claim which is accepted by the State Escheator or ordered to be paid by the Escheator by the Tax Appeal Board or the Court of Chancery shall be paid out of the General Fund.

12 Del. C. 1953, § 1190; 50 Del. Laws, c. 568, § 1; 57 Del. Laws, c. 741, § 48C; 59 Del. Laws, c. 148, § 3; 70 Del. Laws, c. 186, § 1.;

§ 1190. Records required.

The State Escheator shall keep in the office a public record of each payment of unclaimed funds received by the Escheator from any life insurance company. Such record shall show in alphabetical order the name and last known address of each insured or annuitant and of each beneficiary or other person who, according to the company's reports, may have an interest in such unclaimed funds and with respect to each policy or contract its number, the name of the company and the amount due.

12 Del. C. 1953, § 1191; 50 Del. Laws, c. 568, § 1; 70 Del. Laws, c. 186, § 1.;

§ 1191. Other acts not applicable.

No other provisions of this Code relating to escheat or abandoned or unclaimed funds shall apply to life insurance companies nor shall any statute enacted after February 29, 1956, so apply unless specifically made applicable by its terms.

12 Del. C. 1953, § 1192; 50 Del. Laws, c. 568, § 1.;

§ 1192. Penalties and interest.

Repealed by 73 Del. Laws, c. 417, § 3, effective July 22, 2002, and effective for reports filed or required to be filed on or after July 22, 2002.

§ 1193. Penalty for false oath.

The making of a wilful false oath in any report required under this subchapter shall be perjury and punishable as such according to law.

12 Del. C. 1953, § 1194; 50 Del. Laws, c. 568, § 1.;

§ 1194. Effect of failure to report.

Nothing in this subchapter shall prevent the State Escheator from making claim to any fund, to which the State would otherwise be entitled, because it has not been reported in accordance with this subchapter.

59 Del. Laws, c. 278, § 4.;

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§ 1197. Other property escheated.

Except as otherwise provided elsewhere in the Delaware Code all property, as hereinafter defined and not otherwise subject to escheat in accordance with this chapter, the title to which has failed and the power of alienation suspended by reason of: (1) The death of the owner thereof, intestate, leaving no known heirs-at-law; (2) the owner thereof having disappeared or being missing from the owner's last known place of residence for a continuous period of 5 years or more, leaving no known heirs-at-law; or (3) the same having been abandoned by the owner thereof, as hereinafter defined, shall descend to the State as an escheat in accordance with the Constitution, the general laws of this State or this subchapter.

12 Del. C. 1953, § 1197; 58 Del. Laws, c. 275, § 1; 63 Del. Laws, c. 299, § 1; 66 Del. Laws, c. 379, § 5; 70 Del. Laws, c. 186, § 1.

§ 1198. Definitions.

For purposes of this subchapter, the following definitions shall apply:

(1) "Abandoned property" means property against which a full period of dormancy has run.

(2) "Appropriation" means the act of the State, through its duly constituted officers or agencies, in taking or accepting possession or custody of abandoned, unprotected, unclaimed or lost property as conservator thereof for later disposition by descent to the State as an escheat or redemption by the owner as provided in this subchapter.

(3) "Distributions held by financial intermediaries for unknown owners" means property as generally defined in paragraph (11) of this section, which consists of dividends, interest, stock and other distributions made by issuers of securities which are held by financial intermediaries (including, by way of example and not limitation, banks, transfer agents, brokers and other depositories) for beneficial owners whose identities are unknown.

(4) "Escheat" means the descent or devolution of property to the State under and by virtue of the Constitution of the State, the general laws of this State or this subchapter.

(5) "Escheatable property" means property which is subject to escheat to the State under and by virtue of the Constitution of the State, the general laws of this State or this subchapter.

(6) "Escheated property" means property which has descended

to the State as an escheat.

(7) "Holder" means any person having possession, custody or control of the property of another person and includes a post office, a depository, a bailee, a trustee, a receiver or other liquidating officer, a fiduciary, a governmental department, institution or agency, a municipal corporation and the fiscal officers thereof, a public utility, service corporation and every other legal entity incorporated or created under the laws of this State or doing business in this State. For purposes of this subchapter, the issuer of any intangible ownership interest in a corporation, whether or not represented by a stock certificate, which is registered on stock transfer or other like books of the issuer or its agent, shall be deemed a holder of such property. This definition shall be construed as distinguishing the term "holder" of property from the term "owner" of property as hereinbefore defined and as excluding from the term "holder" any person holding or possessing property by virtue of title or ownership.

(8) "Owner," in addition to its commonly accepted meaning, shall be construed to particularly mean and include any person, as hereinbefore defined, having the legal or equitable title to property coming within the purview of this subchapter.

(9)a. "Period of dormancy" means the full and continuous period of 5 years, except a period of 15 years for traveler's checks, during which an owner has ceased, failed or neglected to exercise dominion or control over property or to assert a right of ownership or possession or to make presentment and demand for payment and satisfaction or to do any other act in relation to or concerning such property. Notwithstanding the foregoing, "period of dormancy" means the full and continuous period of 3 years with respect to intangible ownership or indebtedness in a corporation or other entity whether or not represented by a stock certificate or other certificate of membership, bonds and other securities including fractional shares, interest, dividends, cash, coupon interest, liquidation value of stocks and bonds, funds to redeem stocks and bonds, and distributions held by financial intermediaries.

b. A full period of dormancy shall be deemed to have run with respect to any dividends or other distributions held for or owing to an owner at the time a period of dormancy shall have run with respect to the intangible ownership interest in a corporation partnership, statutory or common law trust, limited liability company, or other entity to which such dividend or other distribution attaches. For good cause shown, and upon notice to the State Escheator, the Court of Chancery may, with respect to property over which the Court has otherwise assumed jurisdiction, extend the period of dormancy to a

specific date by which an owner may exercise a right, make a demand or file a claim, provided each extension is set forth in a separate order of the court referring specifically to this section, and each extension is no longer than 3 years, provided further there shall be no more than 2 extensions under this subsection. Except as provided in § 1210 of this title, the period of dormancy shall not commence to run with respect to which claims, demands or other property held by a holder pursuant to a written agreement which contemplates that there shall be a specific period of inactivity, until the expiration of the contemplated period of inactivity. This definition shall be construed as excluding any act or doing of a holder of abandoned property not done at the express request or authorization of the owner. Notwithstanding the foregoing, the "period of dormancy" with regard to gift certificates shall be the shorter of:

1. 5 years, or

2. The expiration period, if any, of the gift certificate less 1 day. In the event the period of dormancy is determined by reference to the expiration period of the gift certificate, the rights of the Escheator shall attach at the time provided in this paragraph (9)b.2. of this section, but the issuer may continue to hold the property and may report and pay over such property as if the period of dormancy were 5 years.

A full period of dormancy shall be deemed to have run with respect to any property that is otherwise reportable and payable to this State that a holder in accordance with the laws of the jurisdiction wherein the holder is located, is obligated or required to report and pay over such property to the other jurisdiction because of a shorter period of dormancy or reporting period.

c. Notwithstanding the foregoing, "period of dormancy" means the full and continuous period of 1 year following the last day of the meet with respect to sums held for the payment of outstanding pari-mutuel tickets from the meet.

(10) "Person" includes a natural person, a corporation organized or created under the laws of this State or a corporation doing business or which has been engaged in business in this State, a copartnership, a voluntary association and every or any other association or organization of individuals, but excludes banking organizations and any life insurance company.

(11) "Property" means personal property, including "distributions held by financial intermediaries for unknown owners" as that phrase is defined in paragraph (3) of this section, of every kind or description, tangible or intangible, in the possession or under the control of a holder,

as hereinafter defined, and includes, but not by way of limitation, (i) money; (ii) bills of exchange; (iii) intangible ownership interests in corporations, whether or not represented by a stock certificate, bonds and other securities; (iv) credits, including wages and other allowances for services earned or accrued on or after January 1, 1958, money orders and traveler's checks, also amounts received in consideration for gift certificates which are unredeemed, or, in lieu of which the State Escheator may in the Escheator's discretion and upon the specific request of the issuer, accept: (1) Gift certificates reissued at face value on the date on which they are tendered to the Escheator; or (2) where the gift certificates provide that they are redeemable for merchandise only, an amount in money representing the maximum cost to the issuer of merchandise represented by the certificate. The burden of proof as to the cost of merchandise shall be on the issuer of the certificate; (v) dividends, cash or stock; (vi) certificates of membership in a corporation or association; (vii) security deposits; (viii) funds deposited by holder with fiscal agents of fiduciaries for payment to owner of dividends, coupon interest and liquidation value of stocks and bonds; (ix) funds to redeem stocks and bonds; (x) amounts refundable from excess or increased rates or charges heretofore or hereafter collected by a corporation for utility services lawfully furnished by it which have been or shall hereafter lawfully be ordered refunded to consumers or other persons entitled thereto and any interest due thereon and which have remained unclaimed by the persons entitled thereto for 5 years from the date they became payable in accordance with the final determination or order providing for the refunds; (xi) amounts refundable from customer deposits heretofore or hereafter collected by a public utility and any interest due thereon, and which have remained unclaimed by the persons entitled thereto for 5 years from the date they become payable; (xii) sums held for the payment of outstanding pari-mutuel tickets; and (xiii) all other liquidated choses in action of whatsoever kind or character. For purposes of this subsection, the phrase "amounts received in consideration for gift certificates" shall not include amounts received in consideration for gift certificates having a face value of \$5.00 or less and which are issued by a holder whose business is described in § 2906 of Title 30 whether or not such holder conducts such business within this State. The word "property" does not include:

a. Credits or deposits evidenced by cash balances on unclaimed or refused personal property nor any property, except the items specifically enumerated above in paragraph (11) of this section including specifically and without limitation consideration received for unredeemed gift certificates, the right to recover which in a proceeding brought by the owner would be barred by any statute of limitations, state or federal; or

b. Non-escheat capital credits as defined in § 909 of Title 26.

12 Del. C. 1953, § 1198; 58 Del. Laws, c. 275, § 1; 58 Del. Laws, c. 426, §§ 1-3; 59 Del. Laws, c. 320, §§ 1, 2; 63 Del. Laws, c. 311, § 4; 65 Del. Laws, c. 351, §§ 1-3; 66 Del. Laws, c. 379, §§ 3, 4; 67 Del. Laws, c. 264, §§ 1-3; 68 Del. Laws, c. 122, § 10; 69 Del. Laws, c. 180, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 298, § 2; 71 Del. Laws, c. 448, § 1; 72 Del. Laws, c. 45, § 2; 75 Del. Laws, c. 19, § 3; 76 Del. Laws, c. 276, §§ 1, 2; 76 Del. Laws, c. 277, §§ 1, 2; 77 Del. Laws, c. 417, § 11.;

§ 1199. Report by holders of abandoned property.

(a) Every holder of funds or other property, tangible or intangible, deemed abandoned under this subchapter shall file with the State Escheator, on or before March 1 of each year, as of December 31 next preceding, a report with respect to such property. The report shall be verified and shall include:

(1) The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property deemed abandoned under this subchapter;

(2) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under \$50 each may be reported in aggregate;

(3) The date when the property became payable, demandable or returnable and the date of the last transaction with the owner with respect to the property; and

(4) Other information which the State Escheator may prescribe.

(b) Upon written request the State Escheator may grant an extension of time with respect to the date for filing the report.

(c) The requirements of this section for filing an annual report shall not apply to municipal corporations or counties and the fiscal officers thereof.

(d) Verification, if made by a partnership, shall be executed by a partner, if made by an unincorporated association or private corporation, by an officer and if made by a public corporation, by its chief fiscal officer.

(e) If the person holding property deemed abandoned is a successor

to other persons who previously held the property for the owner or if the holder has changed name while holding the property, the person holding the property shall file with the report all prior known names and addresses of each holder of the property.

(f)(1) With respect to any stock or other certificate of ownership or any dividend, profit, distribution, interest, payment on principal or other sum held owing by a corporation or other business association for or to a shareholder, certificate holder, member, bondholder or other security holder, the initial report filed under this section shall include all such items of property deemed abandoned under this subchapter without limitation as to time.

(2) Except as provided in paragraph (1) of this subsection, the initial report shall include all such items of property which, under this subchapter, would have been deemed abandoned on the effective date of this subchapter had this subchapter been in effect on January 1, 1964.

(g) No reporting shall be required solely by virtue of holding property constituting consideration paid for unredeemed gift certificates which, in the aggregate, for the reporting period have a face value of less than \$5,000 or for gift certificates having a face value of \$5 or under issued by a holder whose business is described in § 2906 of Title 30 whether or not such firm conducts business in this State.

12 Del. C. 1953, § 1199; 58 Del. Laws, c. 275, § 1; 58 Del. Laws, c. 426, § 4; 66 Del. Laws, c. 379, § 6; 67 Del. Laws, c. 264, § 5; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 298, § 3; 72 Del. Laws, c. 45, § 1.;

§ 1200. [Reserved.]

§ 1201. Payment or delivery of abandoned property.

(a) On or before the date required for the filing of the report pursuant to § 1199 of this title, every holder of abandoned property shall pay or deliver to the State Escheator all abandoned property specified in the report, except that if it appears the reported abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be deemed abandoned, to the State Escheator, but in lieu thereof shall file a verified written explanation of the proof of claim or other reason. The holder of any intangible ownership interest in a corporation deemed abandoned under this subchapter shall, when making the delivery contemplated by this section:

(1) If such interest is a certificated security as defined in §

8-102(a) of Title 6 deliver either the original stock certificate evidencing the abandoned property, if such is in its possession or a duly issued replacement certificate evidencing such property in a form suitable for transfer; or

(2) If such interest is an uncertificated security as defined in § 8-102(a) of Title 6 cause such uncertificated security to be registered in the name of the State Escheator.

(b) [Deleted.]

12 Del. C. 1953, § 1201; 58 Del. Laws, c. 275, § 1; 58 Del. Laws, c. 426, § 6; 65 Del. Laws, c. 351, § 4; 68 Del. Laws, c. 122, § 3; 69 Del. Laws, c. 180, §§ 3, 4; 75 Del. Laws, c. 19, §§ 1, 2.;

§ 1202. Periods of limitation not a bar.

The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being deemed abandoned property nor affect any duty to file a report required by this subchapter or to pay or deliver abandoned property to the State Escheator.

12 Del. C. 1953, § 1202; 58 Del. Laws, c. 275, § 1; 58 Del. Laws, c. 426, § 7.;

§ 1203. Effect of payment and delivery.

(a) The payment or delivery of property to the State Escheator by any holder shall terminate any legal relationship between the holder and the owner and shall release and discharge such holder from any and all liability to the owner, the owner's heirs, personal representatives, successors and assigns by reason of such delivery or payment, regardless of whether such property is in fact and in law abandoned property and such delivery and payment may be pleaded as a bar to recovery and shall be a conclusive defense in any suit or action brought by such owner, the owner's heirs, personal representatives, successors and assigns or any claimant against the holder by reason of such delivery or payment.

(b) Upon the delivery in good faith of a duplicate certificated security to the State Escheator or the registration of an uncertificated security to the State Escheator pursuant to § 1201 of this title, the holder and any transfer agent, registrar or other person acting for or on behalf of the holder in executing or delivering such duplicate certificate or effectuating such registration, is relieved of all liability of every kind to every person, including any person acquiring the original of a certificated security or

the duplicate of a certificated security issued to the State Escheator, for any losses or damages resulting to any person by issuance and delivery to the State Escheator of the duplicate certificated security or the registration to the holder's name of an uncertificated security.

(c) If the holder pays or delivers property to the State Escheator 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 State Escheator acting on behalf of the State, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.

(d) For the purposes of this section, "good faith" means that:

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

(2) The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to the person, that the property was abandoned for the purposes of this subchapter; and

(3) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(e) The State Escheator at the request of a holder and in the State Escheator's sole discretion, may allow a holder to pay over or deliver property otherwise properly payable to the State but against which a full period of dormancy has not yet run. In the event the State Escheator acquiesces to the request and accepts such property, the holder shall be entitled to the protections of this section and the property shall be treated generally as if it had been paid over after a full period of dormancy had run. The provisions of §§ 1145 and 1206(c) of this title shall not apply to property accepted by the State Escheator under this subsection until a full period of dormancy has run against the property.

12 Del. C. 1953, § 1203; 58 Del. Laws, c. 426, § 8; 65 Del. Laws, c. 351, § 5; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 19, § 4.;

§ 1204. Sale of abandoned property.

(a) All abandoned property, other than money, delivered to the State Escheator under this subchapter shall be sold or disposed of in accordance with § 1143 of this title.

(b) All sales of property made by the State Escheator under this

subchapter shall pass absolute title to the purchaser. The State Escheator or the Secretary of State shall execute all documents necessary to complete the transfer of title.

12 Del. C. 1953, § 1204; 58 Del. Laws, c. 426, § 9.;

§ 1205. Deposit and disbursement of funds.

(a) All funds received by the State Escheator under this subchapter, including the proceeds of sale under § 1204 of this title, shall forthwith be paid and deposited into the General Fund of the State.

(b) All disbursements for expenses, claims, storage, etc., made or authorized by the State Escheator in connection with the administration of this subchapter shall be paid by the Secretary of Finance upon presentation of a signed voucher by the State Escheator.

12 Del. C. 1953, § 1205; 58 Del. Laws, c. 426, § 10.;

§ 1206. Claims for abandoned property paid or delivered; determination of claims; appeals.

(a) Any person claiming an interest in any property paid or delivered to the State Escheator under this subchapter may file a claim thereto or to the proceeds from the sale thereof with the State Escheator.

(b) The determination of claims and rights of appeal shall be accomplished as prescribed in § 1146(b) of this title.

(c) When property is paid or delivered to the State Escheator under this subchapter, the owner is not entitled to receive income or other increments accruing thereafter.

12 Del. C. 1953, § 1206; 58 Del. Laws, c. 426, § 11.;

§ 1207. Penalties and interest.

Transferred by 73 Del. Laws, c. 417, § 4, effective July 22, 2002, and effective for reports filed or required to be filed on or after July 22, 2002.

§ 1208. Rules and regulations.

The State Escheator may make such rules and regulations as the Escheator may deem necessary to administer and enforce this subchapter.

12 Del. C. 1953, § 1208; 58 Del. Laws, c. 426, § 13; 70 Del. Laws, c. 186, § 1.;

§ 1209. [Reserved.]**§ 1210. No private escheats.**

Any provision in a certificate of incorporation, by law, trust agreement, contract or any other writing regulating the relationships between an owner and a holder, relating to property with the exception of non-escheat capital credits as defined in § 909 of Title 26, which is or may be subject to the provisions of this chapter, which provides that upon the owner's failure to act or make a claim regarding property in possession of the holder, that such property reverts to or becomes the property of the holder, in contravention of this chapter, shall be void and unenforceable.

68 Del. Laws, c. 122, § 13; 71 Del. Laws, c. 448, § 2.;

§ 1211. Limited exception, uninvoiced payables not reportable.

(a) Property as defined in § 1198 of this title shall be deemed to exclude uninvoiced payables as more particularly defined in this section.

(b) "Uninvoiced payables" are amounts due between merchants as defined in the Delaware Uniform Commercial Code, §§ 1-101 et seq. of Title 6, from a holder who is a buyer to a creditor who is the seller of goods ordered by a holder in the ordinary course of business when the goods were received and accepted by the holder, but which for any reason were never invoiced by the seller.

(c) Uninvoiced payables include the value of goods received by a holder from a seller from out of balance transactions where the holder's purchase order for goods and the amount of goods received by the holder do not match.

(d) Uninvoiced payables include unsolicited goods received by a holder from a seller that fall within § 2505 of Title 6.

(e) Uninvoiced payables specifically do not include accounts payable, accounts receivable, or any other type of credit or amount due to the creditor, including uncashed checks of any kind whatsoever whether relating to inventory, goods, or services, and all of these types of property are still reportable as abandoned or unclaimed property.

(f) Nothing in this section shall be construed to create a business-to-business exemption of any kind regardless of whether a current business relationship exists between the holder and the creditor.

77 Del. Laws, c. 417, § 2.;

§ 1212. No private escheat of gift certificates.

Any provision on or relating to any gift certificate the amount paid in consideration of which is defined as "property" for purposes of this chapter, which provides that, upon the owner's failure to act or make a claim pursuant to such gift certificate within a certain period of time, the owner of the gift certificate shall lose rights with respect to the gift certificate against the issuer, which provision, if applied as against the State Escheator, would have the effect of defeating the escheat of any amount with regard to such gift certificate, shall be unenforceable as against the State Escheator.

67 Del. Laws, c. 264, § 4.;

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§ 1220. Declaration of escheat.

All postal savings system accounts created by the deposits of persons whose last known addresses are in this State which have not been claimed by the persons entitled thereto before June 1, 1971, are presumed to have been abandoned by their owners and are declared to escheat and become the property of the State.

12 Del. C. 1953, § 1220; 58 Del. Laws, c. 329; 58 Del. Laws, c. 426, § 18.;

§ 1221. Obtaining information on accounts.

The Secretary of State shall request from the Bureau of Accounts of the United States Treasury Department records providing the following information:

(1) The names of depositors at the post offices of this State whose accounts are unclaimed;

(2) The last known addresses of such persons, as shown by the records of the Post Office Department; and

(3) The balance remaining in each account, as shown by the records of the Post Office Department.

The Secretary of State shall agree to return to the Bureau of Accounts, promptly, all account cards showing last addresses in another state.

12 Del. C. 1953, § 1221; 58 Del. Laws, c. 329; 58 Del. Laws, c. 426, § 18.;

§ 1222. Proceeding to adjudicate escheat.

The Secretary of State may bring proceedings in the United States District Court to escheat unclaimed postal savings system accounts held by the United States Treasury Department. A single proceeding may be used to escheat as many accounts as may be available for escheat at 1 time.

12 Del. C. 1953, § 1222; 58 Del. Laws, c. 329; 58 Del. Laws, c. 426, § 18.;

§ 1223. Notice.

The Secretary of State shall notify depositors whose accounts are to be escheated, as follows:

(1) A letter advising that a postal savings system account in

the name of the addressee is about to be escheated and setting forth the procedure by which a deposit may be claimed shall be mailed by first-class mail to the named depositor at the last address shown on the account records for each account to be escheated having an unpaid principal balance of more than \$25;

(2) General notice of intention to escheat postal savings system accounts shall be published once in each of 3 successive weeks in 1 or more newspapers which combine to provide general circulation throughout the State;

(3) Special notice of intention to escheat the unclaimed postal savings system accounts originally deposited in each post office must be published once in each of 3 successive weeks in a newspaper published in the county in which the post office is located. Such notice must list the names of the owners of each unclaimed account to be escheated if the account has a principal balance of \$3 or more.

12 Del. C. 1953, § 1223; 58 Del. Laws, c. 329; 58 Del. Laws, c. 426, § 18.;

§ 1224. Collection and deposit of funds; indemnification of United States.

(a) The Secretary of State shall present a copy of each final judgment of escheat to the United States Treasury Department for payment of the principal due and the interest computed under regulations of the United States Treasury Department. The payment received shall be deposited in the General Fund in the State Treasury.

(b) This State shall indemnify the United States for any losses suffered as a result of the escheat of unclaimed postal savings system accounts. The burden of the indemnification falls upon the fund into which the proceeds of the escheated accounts have been paid.

12 Del. C. 1953, § 1224; 58 Del. Laws, c. 329; 58 Del. Laws, c. 426, § 18.;

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