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DELAWARE STATE SENATE
146th GENERAL ASSEMBLY

SENATE BILL NO. 258

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO VOLUNTARY DISCLOSURE OF ABANDONED OR UNCLAIMED PROPERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 WHEREAS, the State is obligated to collect and exercise care and custody of abandoned property for the benefit of the
2 owners of that property, and the Department of Finance undertakes the responsibility to promote the regular reporting of
3 abandoned property through ordinary collections, voluntary disclosure agreements, and examinations by the State
4 Escheator; and

5 WHEREAS, regular, annual reporting of abandoned property by Delaware entities remains in the interest of the State of
6 Delaware and can help promote additional stability and predictability in the quantity of abandoned property collections; and

7 WHEREAS, while many Delaware entities report abandoned property regularly, others have not historically done so, and
8 the State may be benefitted by promoting an alternative opportunity for those property holders to begin regular reporting
9 with attractive incentives; and

10 WHEREAS, the Department of State is uniquely situated to conduct an outreach program to Delaware entities not currently
11 reporting the holding of abandoned property, given its expertise in marketing to Delaware entities; and

12 WHEREAS, any outreach program conducted by the Department of State would have to be in addition to, and not in lieu
13 of, continued diligence by the Department of Finance in the collection of abandoned property, including continued and new
14 examinations undertaken by the State Escheator of those entities not participating in a voluntary disclosure program with
15 the Department of State; and

16 WHEREAS, any voluntary disclosure outreach program undertaken by the Department of State must provide appropriate
17 incentives to participants and be undertaken in close collaboration and cooperation with the Department of Finance;

18 NOW THEREFORE:

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

20 Section 1. Amend Chapter 11, Title 12 of the Delaware Code by adding a new § 1177 as shown by underlining as follows:

21 (a) Notwithstanding any other provision of Title 12 or Chapter 23 of Title 29, the Secretary of State is authorized
22 to resolve and compromise claims for abandoned property otherwise owing to the State Escheator pursuant to Chapter 11 of

23 Title 12, provided that such holders must voluntarily disclose to the Secretary of State such abandoned property on or
24 before the dates provided in this section. The Secretary of State shall possess full and complete authority to determine and
25 resolve all such claims consistent with Chapter 11 of Title 12 and exercise such authorities as are granted to the State
26 Escheator pursuant to that Chapter. In the event the Secretary is unable to resolve such claims by agreement, the Secretary
27 of State may refer the resolution of such claims to the State Escheator at any time. The care and custody of all property
28 paid pursuant to this section is assumed for the benefit of those entitled to receive the same and the State shall have all the
29 responsibilities, duties, and obligations as if such property were recovered by the State Escheator. The Secretary of State
30 may make such rules and regulations as deemed necessary to enforce this section.

31 (b) The Secretary of State may not initiate an examination of records or an investigation pursuant to § 1155, or
32 seek payment of any amounts of property pursuant to § 1156 or § 1158 as to, any calendar year prior to:

33 (i) 1996, with respect to any holder that has indicated in writing its intent to enter into an unclaimed
34 property voluntary disclosure agreement by completing, executing and delivering, on or before June 30, 2013, to the
35 Secretary of State the appropriate form promulgated by the Department of State, and who enters an unclaimed property
36 voluntary disclosure agreement and makes payment in full or enters into a payment plan on or before June 30, 2014; or

37 (ii) 1993, with respect to any holder that has indicated in writing its intent to enter into an unclaimed
38 property voluntary disclosure agreement by completing, executing and delivering, after June 30, 2013 and on or before June
39 30, 2014, to the Secretary of State the appropriate form promulgated by the Department of State, and who enters an
40 unclaimed property voluntary disclosure agreement and makes payment in full or enters into a payment plan on or before
41 June 30, 2015.

42 (c) The Secretary of State shall have no authority to accept a notice in writing of intent to enter into an unclaimed
43 property voluntary disclosure agreement after June 30, 2014, and shall have no authority to enter an unclaimed property
44 voluntary self-disclosure agreement with a holder or otherwise receive or seek payment of any amounts of abandoned
45 property after June 30, 2015.

46 (d) Notwithstanding any other provision of this section or of Chapter 11 of Title 12, the Secretary of State shall
47 have no authority to enter an unclaimed property voluntary self-disclosure agreement with or otherwise receive or seek
48 payment of any amounts of abandoned property from:

49 (i) those holders that have indicated in writing their intent to enter into an unclaimed property voluntary
50 disclosure agreement by completing, executing and delivering, on or before June 30, 2012, the appropriate form
51 promulgated by the State Escheator;

52 (ii) those holders that have entered a voluntary self-disclosure agreement with the State Escheator on or
53 before June 30, 2012;

54 (iii) those holders to which a notice of examination has been mailed by the State Escheator, and

55 (iv) those holders that the Secretary of State has previously referred to the State Escheator.

56 (e) Each of the holders described in subsections (d)(i) or (d)(ii) of this section shall be accorded the benefit of the
57 same deadlines established in subsection (b) of this section, but the State Escheator shall retain authority over all voluntary
58 self-disclosure agreements so described.

59 Section 2. Notwithstanding the provisions of any other law, the Secretary of State or his or her designee shall have
60 the authority to draw upon the Appropriated Special Fund Account for escheat enforcement (appropriation 60513)
61 maintained by the Department of Finance, Office of the Secretary (25-01-01), with the approval of the Secretary of Finance,
62 for any purpose authorized by this Act. The Secretary or his or her designee shall have the same authority granted to the
63 Department of Finance to use such Appropriated Special Funds and enter agreements for such purposes as authorized by
64 law.

65 Section 3. This Act shall sunset July 1, 2015.

SYNOPSIS

This bill creates an additional incentive for holders of abandoned property to report such property to the state and promptly resolve such claims. Holders not currently reporting any or all amounts or types of abandoned property or already engaged in claims resolution with the State Escheator would be eligible to resolve claims before the Secretary of State in a process that would limit the reporting of abandoned property to 1996 or 1993, rather than the current obligation of holders to report abandoned property back to 1981 or those making voluntary disclosure to report abandoned property back to 1991.

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