

CHAPTER 226
FORMERLY
HOUSE BILL NO. 273

AN ACT TO AMEND THE DELAWARE CODE RELATING TO BUDGET AND FISCAL PROCEDURES.

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

Section 1. Amend § 6534, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6534. Revenue estimates.

(a) The Governor shall submit to all members of the General Assembly and the Controller General an estimate of anticipated General Fund revenues by major categories for the current and next immediate fiscal year. Such report shall be made not later than ~~September~~ October 25, December 25, March 25, ~~April 25~~, and May 25, and June 20.

(b) (1) Anticipated General Fund revenue estimate figures ~~shall~~ must be reported as net, i.e., anticipated refunds for overpayments of taxes and fees required by Delaware state law ~~shall~~ must be subtracted by major categories for the current and next immediate fiscal year from gross estimates of anticipated General Fund ~~revenues;~~ and revenues.

(2) The Secretary of Finance shall report such revenue refund disbursements on all financial statements issued by the Department of Finance. Further, estimates of fiscal year revenues and disbursements prepared by the Delaware Economic and Financial Advisory Council (or its successor entity) shall follow this procedure.

(3) The Delaware Economic and Financial Advisory Council shall review the report described in § 8305(6)b. of this title and shall, based on such review and any other information as the Council deems appropriate, approve by majority vote no later than ~~April~~ May 25 of the year following the issuance by the Division of Revenue of ~~such~~ the report an estimate of the revenue loss to the State caused by tax preferences as that term is defined in § 8305(6) of this title.

Section 2. Amend § 7407, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7407. Sale of bonds.

Sufficient notice of public sale of bonds ~~shall be~~ is deemed to have been given if ~~such~~ the notice ~~shall have~~ has been published on the Department of Finance's website at least once ~~5~~ 7 or more days before the date of ~~sale, in~~ at least 1 newspaper of general circulation in the State, and in a financial journal of general circulation in the City of New York, New York, sale.

Section 3. Amend § 7414, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7414. Deposit of money; advances from funds.

(a)(1) All proceeds from the sale of bonds or notes other than premium or accrued interest ~~shall~~ must be deposited by the State Treasurer in a special fund or funds of the State and applied for the purposes for which ~~such~~ the bonds or notes were issued or as otherwise provided by law. All proceeds from the sale of revenue notes and all

accrued interest from the sale of ~~bonds, bonds~~ or revenue notes ~~shall~~ must be deposited by the State Treasurer in the General Fund. Any premium from bonds or revenue ~~notes~~ notes, except for any premium received on refunding bonds, sold after January 1, 2004 (including 2004, including any such premium previously deposited in the General ~~Fund) shall~~ Fund, must, at the discretion of the Director of the Office of Management and Budget, Controller ~~General~~ General, and the Secretary of ~~Finance~~ Finance, be deposited in 1 of the following.

a. ~~(1) Be deposited in a~~ A special fund of the State and applied for the purposes for which ~~such~~ the bonds or notes were issued or as otherwise provided by ~~law; or~~ law.

b. ~~(2) Be deposited in any~~ An escrow fund to redeem, ~~refund or,~~ refund, or defease debt service on existing bonds or notes of the State, or debt service on any debt or other obligation of an instrumentality of the State.

~~(2) In the event that~~ If a deposit is made pursuant to paragraph (a)(1) of this section ~~above,~~ under paragraph (a)(1) of this section, bond authorization ~~shall~~ must be reduced by a corresponding amount. Under no circumstances ~~shall~~ may any proceeds, ~~premium~~ premium, or accrued interest be applied to pay the costs of any project not authorized by the General Assembly.

Section 4. Amend § 8302A, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8302A. Bond.

~~(a) The Secretary of Finance, before entering upon such office, shall, with sufficient sureties, become bound to the State, by a joint and several obligation to be, with the sureties therein, approved by the Governor, in the penal sum of \$125,000, with condition according to the following form:~~

~~“The condition of the above written obligation is such, that if the above named _____ who is Secretary of Finance, shall well and truly account for all money which shall come to such person’s hands as such Secretary, or with which such person as such Secretary shall be legally chargeable, either for the default of any collector whom the Secretary shall appoint or otherwise, and shall and do well and diligently execute the office of Secretary of Finance as aforesaid, and duly and faithfully fulfill and perform all the trusts and duties to the said office appertaining, and also all the duties incumbent upon the Secretary, and if the said _____ or the Secretary’s executors or administrators, shall and do faithfully and without delay pay to the Secretary’s successor in office the just balances remaining of all the money which shall come to such person’s hands as Secretary of Finance, or with which such person as such Secretary shall be legally chargeable, after deducting all legal payments by the Secretary made and allowances made to the Secretary by law, and all legal fees, and shall also deliver to the Secretary’s successor in office all books, securities, muniments and papers to the said office belonging, safe and undefaced; then the said obligation shall be void, otherwise the same shall remain in full force.”~~

~~There shall be subjoined to the obligation a warrant of attorney to confess judgment thereon.~~

~~(b) The obligation shall be recorded by the Secretary of State in the Executive Register, and shall be kept on file in the Secretary's office. A certified copy thereof shall be immediately transmitted to the Auditor of Accounts, and the copy, or the record, or a copy thereof, shall be evidence.~~

~~The obligation shall be proceeded upon by direction of the General Assembly, the Governor or Auditor of Accounts. [Repealed.]~~

Section 5. Amend § 8791A, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8791A. Allocation of state ceiling.

(a) The state ceiling applicable to the State for each calendar year is ~~hereby~~ is, and the volume cap for the state and local governmental issuers for each calendar year after 1987 ~~shall be is~~, as follows:

	Annual Volume Cap
State	50.0 Percent
New Castle County	17.5 Percent
City of Wilmington	12.5 Percent
Kent County	10.0 Percent
Sussex County	10.0 Percent

~~In allocating the volume cap for state and local government issuers, the dollar amount of the allocation shall be rounded to the nearest \$5,000 such that the allocation most closely approximates the percent allocation contained herein.~~

~~(f) Subject to the provisions of subsection (d) of this section, any issuer (other than any authority, agency or instrumentality of the State) may reassign all or any portion of its volume cap to any other issuer, including the State or any of its authorities, agencies or instrumentalities. Any such reassignment shall be made by a written instrument and may be made upon such terms and conditions as may be specified in such written instruments. In the absence of any other procedure established by any political subdivision of the State, a reassignment by such political subdivision shall be made by its chief elected official. Any such reassignment shall be effective upon receipt by the assignee and receipt of a copy of the written instrument by the Secretary of Finance. The Secretary of Finance shall maintain a record of all reassignments made pursuant to this subsection. At the end of each calendar year commencing with calendar year 2020, any volume cap of a city or county, which has not been used by a city or county as determined by the records of the Secretary of Finance, automatically reverts to the State, and is carried forward subject to subsection (d) of this section and requirements of the Code.~~

Section 6. Amend § 341, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter III. Secretary of Finance; General Provisions

§ 341. Bond.

~~The Secretary of Finance shall give bond with sufficient surety in the sum of \$100,000, to be approved by the Governor. Such bond shall include the faithful performance by the Secretary of all duties imposed upon the~~

~~Secretary by law, including duties as escheator. The cost of the bonds shall be paid out of the appropriation for maintenance of the Department of Finance. [Repealed.]~~

Section 7. Amend § 515, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter II. Returns and Payment of Tax

§ 515. Filing frequency and tax computation thresholds.

(a) *Annual adjustment.* Each year, the Department of Finance shall calculate the threshold adjustment factor no later than ~~September 20~~ October 25 of that year and shall present ~~such the~~ adjustment to the Delaware Economic and Financial Advisory Council at its ~~September~~ October meeting.

(c)(2) The annual adjustment of the applicable thresholds for notification requirements, filing frequencies, tax and tax credit calculations occurring each ~~September~~ October as required ~~pursuant to~~ under subsection (a) of this section ~~shall be~~ is effective for determining the applicable thresholds for notification requirements, filing frequencies, tax and tax credit calculations for tax periods beginning after December 31 of the year in which the applicable thresholds were adjusted.

(d) *Publication.* No later than ~~October~~ November 15 each year, the Department of Finance shall publish the annual adjustments to all applicable thresholds on the Division of Revenue Internet Website and engage in public outreach notifying businesses, employers, payroll processors, tax ~~professionals~~ professionals, and the general public of ~~such the~~ adjustments.

Section 8. Amend § 581, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter VI. Miscellaneous

§ 581. Inspection of returns by federal, state and local officials.

(b) Notwithstanding any other provision of this section or § 368 of this title, the Director is specifically authorized to enter into an agreement with the Department of Labor, the Office of the State Bank Commissioner, the Department of Natural Resources and Environmental Control, the Division of Motor Vehicles, the Division of Alcohol and Tobacco Enforcement, the Division of Medicaid and Medical Assistance, the Enhanced 911 Emergency Service Board, or the Alcoholic Beverage Control Commissioner to provide for the inspection of any tax return filed under this title (other than Chapters 30, 51, and 52) or under Title 4; provided, however, that such inspection shall be pursuant to the Department of Labor's duties under Title 19, the Office of the State Bank Commissioner's duties under Title 5, the Department of Natural Resources and Environmental Control's duties under Title 7, the Division of Motor Vehicles' duties under Title 21, the Division of Alcohol and Tobacco Enforcement's duties under Titles 4 and 11, the Division of Medicaid and Medical Assistance's duties under Title 16, the Enhanced 911 Emergency Service Board's duties under Title 16, or the Alcoholic Beverage Control Commissioner's duties under Title 4, and may be subject to such additional requirements as may be imposed by the Director.

(d) The Director is specifically authorized to enter into an agreement with a county to share tax return information filed under this title, other than Chapters 30, 51, and 52. However, the sharing of information is limited

to information pertinent to the county's duties to administer realty transfer, mobile home, and lodging taxes imposed under Chapter 81 of Title 9.

Section 9. Amend § 2103, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2103. Duties of the Department of Finance; adoption of rules and regulations; penalty.

(b) ~~A failure to deposit to the credit of the General Fund of the State all money received for fees or taxes as required by law shall render the Secretary of Finance liable for money due the State, and, in addition, the Secretary shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both. [Repealed.]~~

Section 10. Amend § 2124, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2124. Revocation, ~~denial~~ denial, or nonrenewal of licenses for nonpayment of taxes.

(d) *Finality of revocation, denial or nonrenewal; right to protest.* —

(1) Thirty days after the issuance of the notice of intent, the revocation, denial or nonrenewal shall become final, unless within that time the taxpayer has ~~filed a written protest with the Director under § 523 of this title.~~ done 1 of the following:

a. Paid the debt in full.

b. Entered into a written agreement with the Director of Revenue or the Director's designee for payment of the debt with terms as the Director may require.

c. Filed a written protest with the Director under § 523 of this title.

~~(1)(2)~~ (2) The sole grounds for protest under subsection (a) of this section ~~shall be:~~ are:

a. The absence of any unpaid liability as of the date of the ~~protest;~~ protest.

b. The absence of an unpaid liability exceeding \$2,500 as of the date of the notice under subsection (a) of this ~~section;~~ or section.

c. That the assessment creating the liability was contrary to law and the ~~taxpayer~~ person did not have opportunity to protest the assessment.

~~(2)(3)~~ (3) In the case of revocation, ~~denial~~ denial, or withholding of licenses under subsection (b) of this section, a protest may be made on the grounds set forth for instances arising under paragraph ~~(d)(1)~~ (d)(2) of this section and, in addition, on the grounds that:

a. The conditions required under subsection (b) of this section do not exist; or

b. Notwithstanding the conditions required under subsection (b) of this section, the other affected person acquired the business or its assets in an arms' length transaction and neither the revokee nor any owner of 25% or more of the revokee has any interest in the acquired business.

~~(3)(4)~~ (4) The decision of the Director under this subsection shall be final and shall not be reviewed under § 544 of this title. However, in any matter where the State shall place in issue the nonlicensure of a business, including any action under subsection (e) of this section, any person may raise any defense that may be or may have been raised under this subsection.

Section 11. Amend § 5316, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5316. Design and sale of stamps.

(b) (1) The Department shall make provisions for the sale of Delaware tobacco product tax stamps in such places and at such times as it deems necessary.

(2) All stamps must be paid for at the time of purchase.

(3) Notwithstanding paragraph (b)(2) of this section, an authorized affixing agent may enter into an agreement with the Department of Finance providing for deferred payment for tobacco product stamps or for amounts added to tobacco product tax meters during a month to a date not later than 30 days from the date of purchase or addition to a tobacco product tax meter if the affixing agent furnishes a bond to assure payment in such amount as required by the Secretary of Finance, and pays all amounts due for the month of June by ~~June 30.~~ June 25.

(4) A person may not purchase tobacco product stamps from any person other than the Department of Finance or its authorized agents, except in accordance with the Finance Department's regulations relating to the stamping of floor stock.

Approved February 10, 2020