

CHAPTER 21
FORMERLY
HOUSE BILL NO. 22
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO ABANDONED PROPERTY

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

Section 1. Amend § 4001 of Title 25 of the Delaware Code by striking that section in its entirety and replacing it with the following:

“§ 4001. Definition of abandoned personal property.

- (a) For the purposes of this chapter “abandoned personal property” shall be deemed to be tangible personal property which the rightful owner has left in the care or custody of another person and has failed to maintain, pay for the storage of, exercise dominion or control over, and has failed to otherwise assert or declare the ownership rights to the tangible personal property for a period of 1 year.
- (b) The following personal property shall not be deemed to be “abandoned personal property”:
 - (1) Marital property subject to division in a proceeding for divorce or annulment under 13 Del. C. § 1513;
 - (2) Personal property which has been stolen or otherwise taken from its rightful owner in violation of Title 11 of the Delaware Code;
 - (3) Personal property which has been taken from the rightful owner by conversion;
 - (4) Personal property of a person who dies intestate subject to subchapter I of Chapter 11 of Title 12 of the Delaware Code;
 - (5) Unclaimed property held by banking organizations as defined by subchapter II of Chapter 11 of Title 12 of the Delaware Code; or
 - (6) Any intangible personal property and the tangible evidence thereof under Chapter 11 of Title 12 of the Delaware Code.”.

Section 2. Amend § 4003(b) of Title 25 of the Delaware Code by striking the phrase, “the courthouse and 3” and substituting in lieu thereof the number “5”.

Section 3. Amend § 4003 of Title 25 of the Delaware Code by adding new subsection (d) to read as follows:

“(d) The form of the applications, notices and declarations described in this section shall be prescribed by the court of competent jurisdiction. The language used in the applications, notices and declarations should be simple and non-technical.”.

Section 4. Amend § 4004(b) of Title 25 of the Delaware code by striking that section in its entirety and replacing it with the following:

“(b) Prior to any sale of the abandoned property, the petitioner shall give at least 15 days notice of the sale by handbills posted in 5 or more public places and by advertising in a newspaper published and/or circulated in the county in which the sale is to be held.”.

Section 5. Amend § 4004(c) of Title 25 of the Delaware Code by inserting the word “first” after the phrase, “The proceeds of the sale shall be applied” as it appears in the first sentence.

Section 6. Amend Chapter 40 of Title 25 of the Delaware Code by renumbering current §§ 4005, 4006, and 4007 as §§ 4006, 4007, and 4008, respectively.

Section 7. Amend Chapter 40 of Title 25 of the Delaware Code by inserting a new § 4005 to read as follows:

“§ 4005. Remedy of owner.

The owners or other persons claiming an interest in the property, in addition to the right to a hearing as provided herein, shall have the right to file an action in replevin at any time prior to a final determination of title by the court and no bond shall be required to be posted as a prerequisite to the filing of such an action or the issuance of the writ of replevin.”.

Approved May 10, 2011