

LAWS OF DELAWARE
VOLUME 83
CHAPTER 59
151st GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 104

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO UNCLAIMED PROPERTY.

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

Section 1. Amend § 1102, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 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 chapter, including verification of completeness and accuracy of records relating to unclaimed property, are vested in the Secretary of Finance or the Secretary's delegate.

Section 2. Amend § 1133, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1133. When property presumed abandoned.

Subject to § 1136 of this title, property is presumed abandoned if it is unclaimed by the owner at the time specified for the following property:

(3) A bearer bond or an original-issue-discount bond, ~~5~~ 3 years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises.

(10) Property held by a government or governmental subdivision, agency, or instrumentality, including state and municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, ~~5~~ 3 years after the property becomes distributable.

(15) Property in an individual retirement account that is qualified for tax deferral under the income tax laws of the United States, ~~upon the earlier of the following~~:

a. For an owner for which the holder has no knowledge of death, ~~Three~~ 3 years after the owner's last indication of interest in the account following the date specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty.

b. For an owner for which the holder has ~~Three years after~~ knowledge of ~~the death of the account owner~~

that has been confirmed by the holder in its ordinary course of business, one year following the date specified in the income tax laws of the United States by which distribution of the property following the death of the owner must begin in order to avoid a tax penalty, unless a

beneficiary of the account has indicated an interest in the account within ~~3 years after the date of death~~ the most recent 12 month period.

c. For purposes of this ~~paragraph (15)b.~~ of this section, “knowledge of the death” is as described in § 1137 of this title.

Section 3. Amend § 1143, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1143. Content of report.

(d) No reporting shall be required solely by virtue of holding property constituting consideration paid for unredeemed gift cards which, in the aggregate, for the reporting period have a face value of less than ~~\$5,000~~ \$5,000, or for gift cards having a face value ~~a face value~~ an original issue amount of \$5.00 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.

Section 4. Amend § 1148, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1148. Notice to owner by holder.

~~Effective July 1, 2017, the~~ The holder of property presumed abandoned shall send to the owner notice that complies with § 1149 of this title in a format acceptable to the State Escheator, by first-class United States mail, not more than 120 days nor less than 60 days before filing the report under § 1142 of this title, or at any time as directed under § 1171(5) of this title, if both of the following apply:

- (1) The holder has in its records an address for the owner sufficient to direct the delivery of first-class United States mail to the owner, which the holder’s records do not disclose to be invalid.
- (2) The value of the property is \$50 or more, unless the property is a security, in which case the holder must send notice to the owner regardless of the value of the property.

Section 5. Amend § 1150, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1150. Notice to owner by State Escheator.

(f) Subject to the limitations of § 1189 of this title, the internet-based searchable database required by paragraph (e)(2) of this section must set forth all of the following:

- (1) The names and last known ~~addresses~~ address identifiers of all persons appearing from the records in the State Escheator’s office to be entitled to receive unclaimed property that consists of money in an amount not less than \$10.
- (2) The names and last known ~~addresses~~ address identifiers of all persons appearing from the records in the State Escheator’s office to be entitled to receive unclaimed property that consists of personal property other than money and that the State Escheator has not determined under § 1155(a)(1) of this title to be valueless or of such little value that a sale of the property would cost in excess of the probable proceeds from the property.

(3) If any unclaimed property consisted of personal property other than money and was converted into money under § 1158 of this title and such money amounted to \$10 or more, the names and last known ~~addresses~~ address identifiers of the persons appearing from the records in the State Escheator's office to be entitled to receive the money.

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

(h) The State Escheator may not include in the internet-based searchable database the names and last known ~~addresses~~ address identifiers of persons whose claims for unclaimed property have been satisfied previously.

(i) Notwithstanding the foregoing provisions of this section, the State Escheator may omit from such internet-based searchable database the name and last known address identifiers of any person if special circumstances make it desirable that such information be withheld.

Section 6. Amend § 1153, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1153. Effect of payment or delivery of property to State Escheator.

(c) If a 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, except that a holder shall not be indemnified against penalties imposed by another state. For purposes of this subsection, "state" includes any foreign jurisdiction or subdivision of a foreign jurisdiction that is not a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(f) For the purposes of this section, "penalties" means a penalty, interest, any other fee or fine, or damages that may accrue in association with nonperformance of a holder's statutory obligations.

Section 7. Amend § 1156, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1156. Periods of limitation.

(b) The State Escheator may not commence an action or proceeding to enforce this chapter with respect to the reporting, payment, or delivery of property more than 10 years after the duty arose. The period of limitation established by this subsection is tolled by the earlier of the State Escheator's delivery of a notice of an examination to a holder under this chapter, the Secretary of State's delivery of notice that the person may enter into an unclaimed property voluntary disclosure agreement under § 1172(a) of this title, or the holder's written election to enter into an unclaimed property voluntary disclosure agreement under § 1173 of this title, or if the State Escheator reasonably concludes that the holder has filed a report containing a fraudulent or wilful misrepresentation.

Section 8. Amend § 1160, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1160. Recovery of securities or value by owner.

(a) Beginning on July 1, 2017, a person that makes a valid claim under this chapter of ownership of a security following delivery of a security to the State Escheator is entitled to receive from the State Escheator ~~4~~ one of the following:

(1) If the security is in the custody of the State Escheator at the time of the claim, the security the holder delivered to the State Escheator, plus dividends, interest, and other increments on the security up to the time the claim is paid, to the extent paid to the State Escheator.

(2) If the claim is made within ~~18 months~~ 558 days from the date notice was mailed by the State Escheator to the rightful owner under § 1150 of this title or the date notice was otherwise provided as required by the statute in effect at the time the property was delivered to the State Escheator, the replacement of the security or the market value of the security at the time the claim is filed, at the option of the State Escheator, plus any dividends, interest, and other increments on the security paid to the State Escheator.

(3) If the claim is made more than ~~18 months~~ 558 days after the date notice was mailed by the State Escheator to the rightful owner under § 1150 of this title, the net proceeds of the sale of the security, plus dividends, interest, and other increments on the security up to the time the security is sold, to the extent paid to the State Escheator.

Section 9. Amend § 1160, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(c) For the purpose of this section, the date the claim is made shall be the date of the claimant's first documented contact with the State Escheator regarding the property or claim, including a request for a property search, if the claim is made within 60 days of such contact.

Section 10. Amend § 1166, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1166. When State Escheator must honor claim for property.

(b) The State Escheator shall allow or deny the claim and give the claimant notice of the ~~decision~~ determination in a written record. If the claim is ~~denied~~ denied, the State Escheator shall ~~do all of the following:~~ inform the claimant of the reason for the denial and specify what additional evidence, if any, is required for the claim to be reconsidered.

~~(1) Inform the claimant of the reason for the denial and specify what additional evidence, if any, is required for the claim to be allowed.~~

~~(2) Treat an amended claim as an initial claim under this section.~~

(c) The State Escheator may exercise the powers granted by § 1171 of this title to investigate any suspicion of fraudulent activity in a claim and may refer the matter to law enforcement notwithstanding the confidentiality provisions contained in §§ 1174 and 1189 of this title.

Section 11. Amend § 1167, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1167. Claims and rights of appeal.

(a) The State Escheator shall possess full and complete authority to determine all claims filed under § 1165 of this title and shall immediately send written notice of such determination to the claimant. At any time within ~~4 months~~ 120 days after the State Escheator sends notice of a the determination, a claimant may apply for a hearing and determination of the claim by the Tax Appeal Board created by subchapter II, Chapter 3, Title 30. The procedure before the Tax Appeal Board for such hearings is the same as that provided for by § 329 of Title 30 and the Board has the same power to compel the attendance of witnesses and the production of evidence as is provided in § 330 of Title 30.

Section 12. Amend § 1170, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1170. Request for report of property; compliance reviews.

(c) A notification or request for information made pursuant to subsection (a) or (b) of this section may be sent to a person or an agent in possession of the records, including an agent, representative, subsidiary, or affiliate of the person subject to review under subsection (a) or (b) of this section in order to determine whether the person complied with this chapter.

Section 13. Amend § 1171, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1171. Examination to determine compliance with chapter.

The State Escheator, at reasonable times and on reasonable notice, may do any of the following:

- (1) Examine the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person under examination in order to determine whether the person complied with this chapter. Such records may include information to verify the completeness or accuracy of the records provided, even if such records may not identify property reportable to the State.
- (2) Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to determine whether the person complied with this chapter.
- (3) Issue an administrative subpoena to require that the records specified in paragraph (1) of this section be made available for examination and that the testimony specified in paragraph (2) of this section be provided.

(4) Bring an action in the Court of Chancery seeking enforcement of an administrative subpoena issued under paragraph (3) of this section, which the Court shall consider under procedures that will lead to an expeditious resolution of the action.

(5) Send, or direct a person to send, owner notice in accordance with § 1148 of this title.

Section 14. Amend § 1172, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1172. Rules and procedures for conducting an examination.

(c)(1) For any examination authorized by the State Escheator ~~after before~~ February 2, 2017, ~~and before August 1, 2021,~~ the person under examination may notify the State Escheator of the person's ~~intent request~~ to expedite the completion of the pending examination by providing written notification on a form provided by the State Escheator, ~~responses to all pending or outstanding requests for records, testimony, and information made by the person conducting the examination, and a detailed workplan and schedule for completion of the expedited examination~~ that must be received by the State Escheator within 60 days of the effective date of this statute ~~adoption of regulations under § 1176(b) of this title.~~ For any examination authorized by the State Escheator after August 1, 2021, the person under examination may notify the State Escheator of the person's request to expedite the completion of the pending examination by providing written notification on a form provided by the State Escheator, responses to all pending or outstanding requests for records, testimony, and information made by the person conducting the examination, and a detailed workplan and schedule for completion of the expedited examination. Within 60 days, the State Escheator shall issue a written determination to accept or deny the person's request to expedite completion of the examination, or otherwise seek agreement with the person requesting to expedite to revise the detailed work plan and schedule for completion so that the State Escheator might accept the person's request to expedite completion of the examination. For any person whose request to expedite the completion of the pending examination is accepted, the State Escheator shall provide written notice of the acceptance within 60 days of receipt of the person's request. This determination shall be within the complete discretion of the State Escheator and subject only to the review of the Secretary of Finance.

(2) Except as otherwise provided in subsection (c)(1), for any person who notifies the State Escheator of the person's request to expedite the completion of the pending examination by providing written notification on a form provided by the State Escheator under § 1173(b) of this title, the State Escheator shall mail a notice of examination within 30 days of receipt of the person's request to expedite the completion of the pending examination .

(23) If the request to expedite the completion of the examination is accepted under paragraph (c)(1) of this section or the person received a notice of examination under paragraph (c)(2) of this section ~~person provides the written notification under paragraph (c)(1) of this section and~~ the person provides sufficient responses ~~responds~~ within the time and in the manner established by the State Escheator to all requests for records, testimony, and information made by the person conducting the examination, the State Escheator

shall complete the examination and provide an examination report ~~under § 1177 of this title~~ within 2 years from the date of ~~receipt of the~~ acceptance of the request to expedite under paragraph (c)(1) of this section or the notice of examination under paragraph (c)(2) of this section ~~written notification and shall apply interest per § 1185(a)(2) of this title, provided that the person complies with paragraph (c)(7) of this section, and shall waive interest and penalty under §§ 1183 and 1184 of this title.~~

(34) All requests for records, testimony, and information must be made by the person conducting the examination to the person under examination no later than 18 months after the acceptance of the request to expedite under paragraph (c)(1) of this section or the notice of examination under paragraph (c)(2) of this section, ~~written notification under paragraph (c)(1) of this section.~~

(45) The determination whether the person has responded within the time and in the manner established and a resulting determination to terminate expediting the person's examination under this subsection if the person has not, shall be within the complete discretion of the State Escheator and subject only to the review of the Secretary of Finance. Upon termination of the expedited examination, the person shall be under non-expedited examination, subject to the terms and conditions of such an examination as provided by this subchapter.

(56) A statement of findings ~~An examination report~~ produced at the conclusion of the expedited examination shall be treated as any other report after the conclusion of an examination of a holder under § 1179(a) of this title.

(7) A person whose request to expedite has been accepted under paragraph (c)(1) of this section or who received a notice of examination under paragraph (c)(2) of this section this must deliver full and final payment in accordance with § 1179 of this title not later than the earlier of any the following:

a. Ninety days after the date the State Escheator provides a statement of findings and request for payment.

b. Not later than 3 years from the acceptance of the request to expedite under paragraph (c)(1) of this section or the notice of examination under paragraph (c)(2) of this section.

c. No more than 180 days after the date determined under either paragraph a. or b. of this subsection pursuant to a single extension, which shall be determined within the complete discretion of the State Escheator and subject only to the review of the Secretary of Finance. If the person fails to deliver full and final payment, the State Escheator may terminate the expedited examination per paragraph (c)(5) of this section, and the person shall be under non-expedited examination, subject to the terms and conditions of such an examination as provided by this subchapter.

(d) The State Escheator may authorize an examination of records or an investigation of any person under this section without the person having been notified in writing by the Secretary of State as outlined in subsection (a) of this section in any of the following circumstances:

(1) Pursuant to information received under Chapter 12 of Title 6.

(2) As a joint examination initiated by another state under § 1182 of this title after consultation with the Secretary of State.

(3) Where the Secretary of State may not enter into an unclaimed property voluntary disclosure agreement with person subject to § 1173(e) of this title.

(h) After February 2, 2017, the State Escheator may not conduct any examination of records or an investigation under this section ~~for any period more than 10 years prior to when property is presumed abandoned under this chapter from the calendar year in which the State Escheator provides written notice of such examination~~ with respect to the reporting, payment, or delivery of property more than 10 years after the duty arose under this chapter from the earlier of the date on which the State Escheator delivers written notice of such examination or the Secretary of State delivers notice that the person may enter into an unclaimed property voluntary disclosure agreement under subsection (a) of this section, except if the State Escheator reasonably concludes that the holder has filed a report containing a fraudulent or wilful misrepresentation.

(i) For any holder who requests to enter into the voluntary disclosure agreement program under § 1173 of this title and subsequently voluntarily withdraws or is referred to the State Escheator pursuant to § 1173(a)(4) of this title, the State Escheator may not conduct any examination of records or an investigation under this section for any period more than 10 years prior to when property is presumed abandoned under this chapter from the calendar year in which the holder provided written notice of such holder's intent to enter into the voluntary disclosure agreement program pursuant to § 1173 of this title, except if the State Escheator reasonably concludes that the holder has filed a report containing a fraudulent or wilful misrepresentation.

Section 15. Amend § 1172, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1172. Rules and procedures for conducting an examination.

(j) Subject to this section and § 1171 of this title, the State Escheator may authorize an examination of records or an investigation of any person, or any agent, representative, subsidiary or affiliate of the person under examination, or party in possession of information related to such examination, for any reason related to an examination and is under no obligation to provide any other more specific or detailed reason or justification for the examination to the person under examination or any agent, representative, subsidiary or affiliate of the person under examination, or any party in possession of information related to such examination, other than the request being related to an examination to determine compliance with this Chapter.

Section 16. Amend § 1173, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1173. Voluntary property reporting outreach program.

(b) The Secretary of State may request, via certified mail or any other commercially reasonable means of correspondence that includes evidence of delivery, that a person enter into an unclaimed property voluntary disclosure agreement to determine if the person has complied with any provision of this chapter. If the form indicating the person's intent to enter into a voluntary disclosure agreement is not received by the Secretary of State by certified mail or by other means deemed acceptable by the Secretary of State within ~~90~~ 60 days after the request to enter the voluntary disclosure agreement program was ~~mailed by certified mail delivered~~, the Secretary of State shall refer the person to the State Escheator for examination under § 1171 of this title. Alternatively, within 90 days after the request to enter the voluntary disclosure agreement program was delivered, a person receiving such a request may notify the State Escheator, by certified mail or by other means deemed acceptable by the State Escheator, of the person's request to expedite an examination under §1172(c) of this title by providing written notification on a form provided by the State Escheator.

Section 17. Amend § 1174, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1174. Records obtained in examination or voluntary disclosure.

All of the following apply to records obtained and records, including work papers, compiled by the State Escheator or the Secretary of State in the course of conducting an examination under § 1171 of this title or a voluntary disclosure under § 1173 of this title:

(3) The records may not be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity ~~if the other person conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to § 1189 of this title~~ unless the person subject to examination consents to such use in writing.

Section 18. Amend § 1177, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1177. Report to person whose records were examined.

At the conclusion of an examination under § 1171 of this title, the State Escheator shall provide to a person whose records were examined a complete and unredacted ~~examination report~~ statement of findings, which must identify in detail all of the following:

- (1) The property types reviewed.
- (2) The methodology of any estimation technique, extrapolation, or statistical sampling method used in conducting the examination.
- (3) The calculation showing the value of property determined to be due.
- (4) The findings of the person conducting the examination.

Section 19. Amend § 1178, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 1178. State Escheator's contract with another to conduct compliance review and examination and limit on future employment.

(a) The State Escheator may contract with a person to conduct compliance reviews and examinations in accordance with this chapter but no such person shall be assigned more than 50% of the number of all such compliance reviews and examinations undertaken subsequent to January 1, 2015.

(b) Notwithstanding any other provision of this Code, every contract between the State and a person conducting examinations and providing any unclaimed property examination or consulting services must meet ~~both~~ all of the following:

(1) Be for a term of no more than 5 years.

(2) Provide for payment exclusively on an hourly basis for all compliance reviews and examinations of

holders incorporated in Delaware, except for compliance reviews and examinations of customer accounts or policies for securities accounts and life insurance policies.

(3) Require compliance with any state-approved nondisclosure agreement and non-solicitation provisions.

~~(24)~~ Provide that the person may not hire, retain, or compensate in any way any employee of the ~~Division of Revenue or the~~ Department of Finance who functions in a senior supervisory role related to unclaimed property, including the Secretary of Finance, a Deputy Secretary of Finance, the State Escheator, Assistant Director of Enforcement, or Audit Manager, for a period of 2 years from the time such employee leaves the employ of the ~~State~~ Department of Finance.

Section 20. Amend § 1179, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1179 Judicial review procedure; Court of Chancery jurisdiction.

(b) Not later than 90 days after the State Escheator mails a statement of findings and request for payment, the holder may do any of the following:

(1) File an action against the State Escheator in the Court of Chancery challenging the State Escheator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part.

(2) Pay the amount or deliver the property determined by the State Escheator to be paid or delivered to the State Escheator and file an action against the State Escheator in the Court of Chancery for a refund of all or part of the amount paid or return of all or part of the property delivered.

(d) In the appeal to the Court of Chancery, the Court, when factual determinations are at issue, shall take due account of the experience and specialized competence of the State Escheator and of the purposes of the

basic law under which the State Escheator has acted. The Court's review shall be limited to a determination of whether the statement of findings and request for payment was the product of an orderly and logical deductive process rationally supported by substantial, competent evidence on the hearing record. The Court shall review errors of law de novo, and the Court's review shall include state or federal constitutional questions related to the examination. If the Court determines that the statement of findings and request for payment is insufficient for its review, it shall remand to the State Escheator for further proceedings.

Section 21. Amend § 1183, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1183. Interest and penalties.

(a) Interest at 0.5% per month on outstanding unpaid amounts accrues from the date the amounts or property were due under this chapter until paid. Interest due in accordance with this subsection may not exceed 50% of the amount required to be paid. Penalties under subsections (b), (c), or (d) of this section are not interest for purposes of this subsection. This subsection applies to any late-filed unclaimed property that is reported and remitted on or after July 1, 2017.

~~(1) Under § 1173 of this title, the Secretary of State possesses the authority to waive interest under this section on outstanding unpaid amounts reported through the Secretary of State's voluntary disclosure program.~~

~~(2) Interest is waived for any holder who has filed the holder's intent in accordance with § 1172(e) of this title to enter a Department of Finance expedited examination process within 60 days of the adoption of regulations under § 1176(b) of this title if the holder acts in good faith to complete the examination.~~

Section 22. Amend § 1185, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1185. Waiver of interest and penalty.

(a) The State Escheator may, for good cause, waive, in whole or in part, interest and penalties under § 1183 or § 1184 of this title, subject to the following requirements:

(1) Except as provided in paragraph (2) of this subsection, interest must be no less than 20% per incident for any holder who receives a notice of examination after August 1, 2021.

(2) Interest must be 1% per incident for any holder who receives a notice of examination after August 1, 2021, who completes and remits payment pursuant to a Department of Finance expedited examination process under § 1172(c) of this title.

(3) For the purposes of this section, "per incident" means the total past-due examination liability, including any estimated liability under § 1176(a) of this title.

~~(b) The State Escheator may, for good cause shown, do all of the following related to unclaimed property remitted to the State before January 1, 2019:~~

- ~~(1) Waive, in whole or in part, the calculable interest under § 1183 of this title for unclaimed property remitted to the State with a required report under § 1142 or § 1170 of this title.~~
- ~~(2) Waive, in whole or in part, the calculable interest under § 1183 of this title for unclaimed property remitted to the State as a result of securities examinations in which estimation is not required under §§ 1171 and 1172 of this title.~~
- ~~(3) Waive up to 50% of the calculable interest under § 1183 of this title for all unclaimed property remitted to the State and not provided for in paragraph (b)(1) or (b)(2) of this section.~~
- ~~(c) The State Escheator may, for good cause shown, do all of the following related to unclaimed property remitted to the State on or after January 1, 2019:~~
- ~~(1) Waive, in whole or in part, the calculable interest under § 1183 of this title for unclaimed property remitted to the State with a required report under § 1142 or § 1170 of this title.~~
- ~~(2) Except for examinations expedited under § 1172(c) of this title, waive up to 50% of the calculable interest under § 1183 of this title for all unclaimed property remitted to the State and not provided for in paragraph (c)(1) of this section.~~

(b) The Secretary of State may waive interest due on outstanding unpaid amounts reported through the Secretary of State's voluntary disclosure program pursuant to § 1173 of this title.

Section 23. Amend § 1186, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1186. When agreement to locate property enforceable.

An agreement by an owner and a person, ~~the primary~~ a purpose of which is to locate, deliver, recover, or assist in the location, delivery, or recovery of property held by the State Escheator, is enforceable only if the agreement meets all of the following criteria:

- (1) It is in a record that clearly sets forth the nature of the property and the services to be provided.
- (2) It is signed by or on behalf of the owner, with signature notarized.
- (3) It states the amount or value of the property reasonably estimated or expected to be recovered computed both before and after a fee or other compensation to be paid to the other person has been deducted.
- (4) It discloses that the property is being held by the Department of Finance.

Section 24. Amend § 1189, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1189. Confidentiality of records.

(a) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any officer or employee of the Department of Finance or the Department of State or for any other ~~officer~~ officer, or employee, or contractor of this State to disclose or make known in any manner to any person who is not a current officer or employee of this State any of the following:

(1) The amount of unclaimed property that has been reported to and received by the State Escheator or the Secretary of State, or both, by any holder, under this chapter, or to disclose the terms of or supporting documentation related to any annual filing, unclaimed property voluntary disclosure agreement, or settlement agreement resulting from the reporting of any unclaimed property under this chapter, including all agreements entered into under this chapter, including past agreements.

(2) Identifying information regarding any unclaimed property owner that is set forth in any report or record made or delivered to the State Escheator, including the exact amount of any property and the character of any property received by the State Escheator.

(b) Notwithstanding subsection (a) of this section, the State Escheator shall maintain a public record of all names and last-known ~~addresses~~ address identifiers of the person or persons appearing to be entitled to property paid or delivered to the State Escheator under this chapter, including whether the value of such property exceeds a set amount to be determined by the State Escheator.

(1) The State Escheator shall retain other identifying information in a report or record made or delivered to the State Escheator.

(2) The State Escheator shall consider the information in paragraph (b)(1) of this section to be confidential and the information may be disclosed only in the discretion of the State Escheator.

(3) The State Escheator may provide additional information regarding unclaimed property as follows:

a. To a person who has presented satisfactory proof of an interest in or title to such property.

b. For purposes directly connected with the administration of this chapter.

(e) Policies and procedures relating to the determination of claims and fraud prevention are confidential and are not a “public record” under Chapter 100 of Title 29.

Section 25. Sections 1, 4, 9, 10, 11, 13, 15, 18, 20, and 22 of this Act shall apply retroactively to any claims, examinations, or litigation pending as of the effective date of this legislation.

Section 26. Sections 2, 3, 5, 6, 7, 8, 12, 14, 16, 17, 19, 21, 23, and 24 of this Act take effect on August 1, 2021.

Approved June 30, 2021