SPONSOR: Sen. Townsend & Rep. B. Short
Sens. McBride, Henry, Poore, Simpson, Lavelle, Lopez;
Reps. Schwartzkopf, Longhurst, Viola, D. Short, Hudson

DELAWARE STATE SENATE

149th GENERAL ASSEMBLY

SENATE BILL NO. 13
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 12 AND 25 OF THE DELAWARE CODE RELATING TO ABANDONED OR UNCLAIMED PROPERTY.

WHEREAS, an effectively functioning unclaimed property program has long been and remains a vital component of the State's consumer protection regime; and

WHEREAS, through its unclaimed property program, the State has, since 2013, returned more than $300 million in cash and securities to rightful owners; and

WHEREAS, the State's continued ability to reunite owners with their unclaimed property relies first on the compliance among holders of such property with the State's unclaimed property statute; and

WHEREAS, ensuring continued proper compliance among holders requires that the State has effective enforcement mechanisms that are predictable and even-handed in their application; and

WHEREAS, there have been significant technological developments in the State's ability to efficiently interact with holders and consumers in the reporting and claims processes; and

WHEREAS, the substance of the State's unclaimed property law has for decades served well the State's citizens; and

WHEREAS, solely for ease of administration and organizational clarity, existing subchapters should be struck in their entirety and the statute restructured in a more orderly manner; and

WHEREAS, it is critical to preserve the valuable longstanding elements of the State's unclaimed property law while updating other elements necessary to address contemporary conditions.

NOW, THEREFORE:

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:

LC : MJC : RAY: 4801490018
LC : MJC : RAY : 0401490032

§ 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~~ chapter are vested in the Secretary of Finance or the Secretary's delegate.

Section 2. Amend Subchapters II, III, and IV of Chapter 11, Title 12 of the Delaware Code by deleting these Subchapters in their entirety and by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter II. Unclaimed Property.

§ 1130. Definitions.

As used in this chapter:

(1) "Audit Manager" means the Abandoned Property Audit Manager of the Delaware Department of Finance.

(2) "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.

(3) "Business association" means a for profit or nonprofit corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity.

(4) "Domicile" means as follows:

a. For a corporation, the state of its incorporation.

b. For a business association, other than a corporation, whose formation or organization requires a filing with a state, the state of its filing.

c. For a federally chartered entity, the state of its home office.

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(6) "Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union.

(7) "General Fund" means the General Fund described in § 6102 of Title 29.

(8) "Gift card" means a record that may be used to obtain merchandise, goods, or services at a single retailer of goods or services or an affiliated group of retailers of goods or services.

(9) “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 chapter, 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, is a holder of such property. This definition shall be construed as distinguishing the term “holder” of property from the term “owner” of property, as “owner” is defined in this section, and as excluding from the term “holder” any person holding or possessing property by virtue of title or ownership.

(10) “Insurance company” means an association, corporation, or fraternal or mutual-benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit-life, contract-performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage-protection, and worker-compensation insurance.

(11) “Loyalty card” means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services. The term does not include a record that may be redeemed for money or otherwise monetized by the issuer.

(12) “Mineral” means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by law of this State other than this chapter.

(13) “Mineral proceeds” means an amount payable for extraction, production, or sale of minerals, or, on the abandonment of the amount, the amount that becomes payable after abandonment. The term includes an amount payable as follows:

a. For the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, and delay rental.

b. For the extraction, production, or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, and production payment.

c. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement, and farm out agreement.

(14) “Municipal bond” means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.

(15) “Non-freely transferable security” means a security that cannot be delivered to the State Escheator by the Depository Trust Clearing Corporation or a similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. The term includes a worthless security.

(16) “Owner” means a person, or the person’s legal representative when acting on behalf of the person, that has a legal, beneficial, or equitable interest in property subject to this chapter. The term includes all of the following:

a. A depositor, for a deposit.

b. A beneficiary, for a trust other than a deposit in trust.

c. A creditor, claimant, or payee, for other property.

d. The lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.

(17) “Person” means an individual; estate; business association; public corporation; government or governmental subdivision, agency, or instrumentality; or other legal entity.

(18) “Property” means tangible property described in § 1134 of this title or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder’s business or by a government, governmental subdivision, agency, or instrumentality. The term:

a. Includes all income from or increments to the property.

b. Includes property referred to as or evidenced by any of the following:

1. Money, interest, dividend, a check, draft, or deposit.

2. A credit balance, customer’s overpayment, gift card, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, pari-mutuel ticket, mineral proceeds, or unidentified remittance.

3. A security, bond, debenture, note, or other evidence of indebtedness.

4. Money deposited to redeem a security, make a distribution, or pay a dividend.

5. An amount due and payable under the terms of an annuity contract or insurance policy.

6. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance, or similar benefits.

c. Does not include any of the following:

1. “Uninvoiced payables,” as defined in this section. 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 owner.

2. “Non-escheat capital credits,” as defined in § 909 of Title 26.

3. Layaway accounts issued or maintained by any person in the business of selling tangible personal property at retail.

4. A loyalty card.

(19) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(20) “Security” means any of the following:

a. A share, participation, debt obligation or similar interest issued by a corporation, business trust, joint stock company, or similar entity.

b. A share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws.

c. An interest in a unit investment trust that is so registered.

d. A face-amount certificate issued by a face-amount certificate company that is so registered.

e. An interest in a partnership or limited liability company that is dealt in or traded on securities exchanges or in securities markets.

f. All financial assets maintained in an account, but not the physical securities held in a safe deposit box or other safekeeping repository.

(21) “Sign” means to do one of the following with present intent to authenticate or adopt a record:

a. Execute or adopt a tangible symbol.

b. Attach to or logically associate with the record an electronic symbol, sound, or process.

(22) “State” means 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.

(23) “State Escheator” means the person responsible for the administration and enforcement of this chapter, as established by § 1102 of this title and § 363 of Title 30.

(24) “Stored-value card” means a record that evidences a promise for consideration by the holder of the record that the owner of the record will be provided, solely or a combination of, merchandise, services, or cash in the value shown in the record, which is pre-funded and the value of which may be increased by the owner or holder or decreased

by redemption.

(25) “Uninvoiced payables” means amounts due “between merchants,” as defined in § 2-104 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. 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. “Uninvoiced payables” include unsolicited goods received by a holder from a seller that fall within § 2505 of Title 6. “Uninvoiced payables” 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 unclaimed property.

(26) “Utility” means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for any the following public services:

a. Transmission of communications or information.

b. Production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

c. Provision of sewage and septic services, or trash, garbage, or recycling disposal.

(27) “Worthless security” means a security whose cost of liquidation and delivery would exceed the value of the security on the date a report is due under this chapter.

§ 1131. Inapplicability to wholly foreign transaction.

This chapter does not apply to property held, due, and owing in a foreign country if the transaction involving the property was a wholly foreign transaction.

§ 1132. Rule making.

Except as provided in §§ 1167, 1173(a), and 1176(a) of this title, the State Escheator may make such rules and regulations as the State Escheator may deem necessary to administer and enforce this chapter.

§ 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:

(1) A traveler’s check, 15 years after issuance.

(2) A money order, 5 years after issuance.

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

(4) Interest on debt of a business association, 5 years after the obligation to pay arises.

(5) A demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years after the earlier of maturity or the date of the last indication of interest in the property by the owner, except a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the owner consented in a record on file with the holder to a renewal at or about the time of the renewal.

(6) Money or credits owed to a customer as a result of a retail business transaction, 5 years after the obligation arose.

(7)a. An amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, upon one of the following:

1. Five years after knowledge of death of the insured.

2. One year after the date the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based in the case of a policy or annuity payable upon death where the obligation to pay did not arise under paragraph (7)a.1. of this section.

b. For purposes of this paragraph (7) of this section:

1. "Knowledge of death" means either of the following:

A. Receipt of an original or valid copy of a certified death certificate.

B. A death master file match validated by the insurer based on a good faith effort within 90 days of notice of the death master file match.

2. "Death master file" means the United States Social Security Administration's Death Master File or other database or service that is at least as comprehensive as that file for determining that a person has died.

(8) Property distributable by a business association in the course of dissolution, 5 years after the property becomes distributable.

(9) Property held by a court, including property received as proceeds of a class action, 5 years after the property becomes distributable.

(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 years after the property becomes distributable.

(11) Wages, including commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, 5 years after the amount becomes payable.

(12) A deposit or refund owed to a subscriber by a utility, 5 years after the deposit or refund becomes payable.

(13) A security 3 years after the last indication of interest in the property.

(14) A stored-value card or gift card, 5 years after the later of the date of purchase, the addition of funds to the stored-value card or gift card, a verification of the balance by the owner, or the last indication of interest in the property. For a stored-value card or gift card, the amount unclaimed is the amount representing the maximum cost to the issuer of the merchandise, goods, or services represented by the card.

(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. Three 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. Three years after knowledge of the death of the account owner that been confirmed by the holder in its ordinary course of business, unless a beneficiary of the account has indicated an interest in the account within 3 years after the date of death. For purposes of this paragraph (15)b. of this section, "knowledge of the death" is as described in § 1137 of this title.

(16) Sums held for the payment of outstanding pari-mutuel tickets from the meet, 1 year following the last day of the meet.

(17) All other property not specified in this section or § 1134 of this title, the earlier of 5 years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

§ 1134. When contents of safe deposit box presumed abandoned.

Proceeds from a sale of tangible property held in a safe deposit box by the holder permitted by law of this State other than this chapter are presumed abandoned if the property remains unclaimed by the owner 5 years after the earlier of one of the following:

(1) The expiration of the lease or rental period for the box.

(2) The earliest date when the lessor of the box is authorized by law of this State other than this chapter to enter the box and remove or dispose of the contents without consent or authorization of the lessee.

§ 1135. When related property interest presumed abandoned.

At the time an interest is presumed abandoned under this chapter, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

§ 1136. Indication of owner interest in property.

(a) Property is not presumed abandoned if the owner indicates an interest in the property during the applicable

periods in this chapter.

(b) An indication of an owner's interest in property includes any of the following:

(1) A record communicated by the owner to the holder or agent of the holder concerning the property or the account in which the property is held.

(2) An oral communication by the owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the owner's communication.

(3) Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution.

(4) Activity directed by an owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the owner to increase, decrease, or otherwise change the amount or type of property held in the account.

(5) Subject to subsection (d) of this section, payment of a premium on an insurance policy.

(c) A communication with an owner by a person other than the holder or the holder's representative is not an indication of the owner's interest in the property unless a record of the communication evidences the owner's knowledge of a right to the property.

(d) Application of an automatic-premium-loan provision or other nonforfeiture provision contained in an insurance policy is not an indication of the insured's interest in the policy and does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before depletion of the cash surrender value of the policy by application of the provision.

(e) If the property is either held within accounts established for automatic electronic deposit of dividends ("ACH Accounts") or within accounts established as part of a dividend reinvestment plan, including mutual fund accounts and brokerage accounts (collectively, "DRP Accounts"), the mailing of an IRS Form 1099 relating to the investment or account by the holder or its agent to the owner that is not returned to the holder or its agent by the United States Postal Service is an indication of the owner's interest in the property.

(f) For purposes of a security where the last-known address of the owner is in a foreign country, an executed Form W-8 BEN from the owner dated within 3 years of the end of any calendar year on file with the holder or its agent is an indication of the owner's interest in the property.

(g) If an owner has more than one investment or account with a holder, an indication of owner interest with respect to one investment or account with that holder is an indication of the owner's interest in all accounts of the owner with

respect to that holder.

§ 1137. Knowledge of death.

Knowledge of death regarding an owner's interest in property may be identified through any source, including a declaration of death, death certificate, a comparison of the holder's records against the Social Security Death Master File, or other equivalent resources.

§ 1138. Retained asset account for insurance policy or annuity contract.

If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check or draft writing privileges for the beneficiary of the policy or contract and the proceeds are retained by the insurance company or its agent under a supplementary contract not involving annuity benefits other than death benefits, the policy or contract includes the assets in the account.

§ 1139. Address of owner to establish priority.

(a) The last-known address of an owner is a description, code, or other indication of the location of the owner on the holder's books and records which identifies the state of the last-known address of the owner.

(b) The address of the owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under § 1140 of this title.

§ 1140. Address of owner in this State.

The State Escheator may take custody of property that is presumed abandoned, whether located in this State or another state, or in a foreign country if the last-known address of the owner, as shown on the records of the holder, is in this State.

§ 1141. Holder domiciled in this State.

(a) Except as otherwise provided in subsection (b) of this section or § 1140 of this title, the State Escheator may take custody of property presumed abandoned, whether located in this State, another state, or a foreign country, if the holder is domiciled in this State or is the State or a governmental subdivision, agency, or instrumentality of this State, and any of the following circumstances are met:

(1) Another state is not entitled to the property because there is no last-known address in the records of the holder of the owner or other person entitled to the property.

(2) The state of the last-known address of the owner or other person entitled to the property does not provide for custodial taking of the property.

(3) The last-known address of the owner is in a foreign country.

(b) Property is not subject to custody of the State Escheator under subsection (a) of this section if the property is specifically exempt from custodial taking under the law of this State or the state of the last-known address of the owner.

(c) If the holder's state of domicile has changed since the time the property was presumed abandoned, the holder's state of domicile in this section is deemed to be the state where the holder was domiciled at the time the property was presumed abandoned.

§ 1142. Report required by holder.

(a) A holder of property presumed abandoned and subject to the custody of the State Escheator shall file an annual report to the State Escheator concerning the property. Beginning March 1, 2018, all reports under this section must be in a web-based record, and the State Escheator may not accept any other medium or method for submitting the report.

(b) A holder may contract with a third party to make the report required under subsection (a) of this section.

(c) If a holder contracts with a third party under subsection (b) of this section, the holder is responsible to the State Escheator for all of the following:

(1) The complete, accurate, and timely reporting of property presumed abandoned.

(2) Paying or delivering to the State Escheator property described in the report filed under this section.

§ 1143. Content of report.

(a) The report required under § 1142 of this title must do all of the following:

(1) Be signed by or on behalf of the holder and verified as to its completeness and accuracy.

(2) Describe the property.

(3) Except for a traveler's check or money order, contain the following information about the owner of the property: the name, if known; the last-known address, if known; and the Social Security number or taxpayer identification number, if known or readily ascertainable.

(4) For an amount held or owing under a life or endowment insurance policy or annuity contract, contain the full name and last-known address of the insured, annuitant, or other owner of the policy or contract and of the beneficiary.

(5) Contain the commencement date for determining abandonment under § 1133 of this title.

(6) State that the holder has complied with the notice requirements of § 1148 of this title.

(7) Identify property that is a non-freely transferable security, and explain why it is a non-freely transferable security.

(8) Identify a designated individual employed by the holder who will serve as the contact for all

correspondence with the State related to the reporting and remittance of unclaimed property under this chapter and contain the designated individual's mailing address, telephone number, email address, and title. The holder must notify the State of any change of the designated individual or any information provided about the designated individual.

(9) Contain other information which the State Escheator may prescribe.

(b) A report under § 1142 of this title may include personal information about the owner or the owner's property to the extent such information is not otherwise prohibited by federal law. Any personal information, and disclosure of such information, must be treated in accordance with § 1189 of this title.

(c) If a holder has changed the holder's name while holding property presumed abandoned or is a successor to another holder that previously held the property for the owner, the holder shall include in the report under § 1142 of this title the holder's former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property.

(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 or for gift cards having a face value 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.

§ 1144. When report to be filed.

(a) Subject to subsection (d) of this section, the report under § 1142 of this title pertaining to property designated under § 1133 of this title must be filed by all holders and business associations other than banking organizations and insurance companies on or before March 1 of each year to cover the 12 months preceding January 1 of that year.

(b) Subject to subsection (d) of this section, the report under § 1142 of this section pertaining to property designated under § 1133 of this title must be filed by banking organizations on or before November 10 of each year to cover the 12 months preceding July 1 of that year.

(c) Subject to subsection (d) of this section, the report under § 1142 of this title pertaining to property designated under § 1133 of this title must be filed by insurance companies on or before December 20 of each year to cover the 12 months preceding January 1 of that year.

(d) Before the date for filing the report under § 1142 of this title, the holder of property presumed abandoned may request an extension of the date of filing from the State Escheator. The State Escheator may grant an extension for good cause. If the State Escheator grants an extension, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid.

§ 1145. Retention of records by holder.

A holder required to file a report under § 1142 of this title shall retain records for 10 years after the date the report was filed, unless a shorter period is provided by the State Escheator by rule or regulation. A holder may satisfy the requirement to retain records under this section through an agent. The records retained must contain all of the following:

(1) The verifiable information required to be included in the report.

(2) The date, place, and nature of the circumstances that gave rise to the property right.

(3) The amount or value of the property.

(4) The last address of the owner, if known to the holder.

(5) If the holder sells, issues, or provides to others for sale or issue in this State traveler's checks or money orders, a record of the instruments while they remain outstanding indicating the state and date of issue.

§ 1146. When property reportable and payable or deliverable.

Property is reportable and payable or deliverable under this chapter even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

§ 1147. Limitation on assignment or transfer of liability.

(a) A holder may not assign or otherwise transfer its obligation to hold for or pay or deliver property or to comply with the duties of this chapter, other than to a parent, subsidiary, or affiliate of the holder.

(b) Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, shall be responsible for fulfilling the holder's obligation to hold for or pay or deliver property or to comply with the duties of this chapter regarding the transfer to it of property owed to and being held for an owner resulting from the merger, consolidation, or acquisition.

(c) Nothing in this section prohibits a holder from contracting with a third party for the reporting of unclaimed property. But, a holder shall remain responsible to the State Escheator for the complete, accurate, and timely reporting of the property.

§ 1148. Notice to owner by holder.

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 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.

§ 1149. Contents of notice by holder.

(a) The notice under § 1148 of this title must contain a heading that reads as follows: "Notice. The State of Delaware requires us to notify you that your property will be transferred to the custody of the State Escheator if you do not contact us before [insert date that is 30 days after the date of this notice.]"

(b) The notice under § 1148 of this title must do all of the following:

(1) State that the property will be turned over to the State Escheator.

(2) State that after the property is turned over to the State Escheator an owner that seeks return of the property may file a claim.

(3) Identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice.

(4) State that property that is not legal tender of the United States may be sold by the State Escheator.

(5) Provide instructions that the owner must follow to prevent the holder from reporting and paying or delivering the property to the State Escheator.

§ 1150. Notice to owner by State Escheator.

(a) Subject to subsection (b) of this section, the State Escheator shall send written notice to an owner prior to liquidation that a security or other property that is not money presumed abandoned and appears to be owned by the owner is held by the State Escheator under this chapter.

(b) In providing notice under subsection (a) of this section, the State Escheator shall send written notice to each owner of a security or other property that is not money held by the State Escheator to the last-known address of the owner contained in the records of the holder as provided to the State Escheator, unless the State Escheator determines that the notice would not be received by the owner or the State Escheator determines that the total value of the security or other property that is not money does not exceed $50.

(c) The State Escheator and the State of Delaware shall not be liable to an owner based upon the liquidation of a security or other property that is not money if notice has been sent as provided by this section and if the State Escheator has not acted unreasonably in determining that mailed notice would not be received by the owner. Except with respect to the provisions of § 1160(a)(2) of this title, the State Escheator and the State of Delaware are not liable to the owner of a security or other property that is not money for an amount that exceeds that which was actually received upon the liquidation of the security.

(d) In June and December of each year, the State Escheator shall publish in a daily newspaper of this State a notice that unclaimed property paid to the State Escheator is available to be claimed by the owners of the unclaimed property.

(e) The notice required by subsection (d) of this section shall be in such form and classified in such manner as the State Escheator shall determine, except that the notice shall do all of the following:

(1) Occupy at least one-half page in a daily newspaper of this State.

(2) Provide the Uniform Resource Locator address of an internet-based searchable database that includes the names of all persons appearing to be entitled to any unclaimed property.

(3) Provide a toll-free customer service telephone number.

(4) Contain a statement that a claim for any unclaimed property must be filed with the 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 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 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 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.

(g) The State Escheator shall regularly update the internet-based searchable database, and shall include in the database, at a minimum, all data received by the State 6 months immediately preceding the publication dates specified in subsection (d) of this section.

(h) The State Escheator may not include in the internet-based searchable database the names and last-known addresses 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 of any person if special circumstances make it desirable that such information be withheld.

(j) The State Escheator and the State of Delaware are not liable to an owner, absent gross negligence or intentional misconduct, for the failure to publish a notice of unclaimed property under subsection (d) of this section or the failure to include the name, address, and other information regarding a person entitled to receive property under subsection (f) of this

section.

§ 1151. Cooperation among agencies to determine owner.

Unless prohibited by law of this State other than this chapter, on request of the State Escheator, each officer, agency, board, commission, division, and department of this State; any body politic and corporate created by this State for a public purpose; and each political subdivision of this State may make its books and records available to the State Escheator and cooperate with the State Escheator to determine the current address of an owner of property held by the State Escheator under this chapter.

§ 1152. Payment or delivery of property to State Escheator.

(a) Except as otherwise provided in this section, on filing a report under § 1142 of this title, the holder shall pay or deliver to the State Escheator the property described in the report.

(b) If property in a report under § 1142 of this title is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the State Escheator at the time of the report, the date for payment of the property to the State Escheator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the State Escheator of the extended date.

(c) If property reported to the State Escheator under § 1142 of this title is a security, the State Escheator may do either of the following:

(1) Make an endorsement, instruction, or entitlement order on behalf of the owner to invoke the duty of the issuer, its transfer agent, or the securities intermediary to transfer the security.

(2) Dispose of the security under § 1159 of this title.

(d) The State Escheator shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the State Escheator by a holder.

(e) A holder is not required to deliver to the State Escheator a security identified by the holder as a non-freely transferable security. Upon determination by the State Escheator or the holder that a security is no longer a non-freely transferable security, the holder shall remit the security on the next regular date prescribed for delivery of securities under this chapter. The holder shall annually determine whether a security identified in a report filed under § 1142 of this title as a non-freely transferable security is no longer a non-freely transferable security.

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

(a) Unless otherwise addressed in subsection (b) of this section, the holder’s payment or delivery of property to the State Escheator terminates any legal relationship between the holder and the owner with respect to the property reported and releases and discharges the holder from any and all liability to the owner, the owner's heirs, personal representatives,

successors, or assigns by reason of such payment or delivery, 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. Application of this subsection (a) is mutually exclusive of subsection (b) of this section and, accordingly, may not be applied in conjunction with subsection (b) of this section.

(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 under § 1152 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 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.

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

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

(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 chapter.

(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) Under § 1155(b) of this title, at the request of a holder, the State Escheator may allow the 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. If the State Escheator grants the holder's request and accepts the property, the holder is entitled to the protections of this section and the property is to be treated generally as if it had been paid over or delivered after a full period of dormancy had run. § 1155 of this title does not apply to property accepted by the State Escheator under this subsection until a full period of dormancy has run against the property.

§ 1154. Interest not to run after report of property and limitation on claims.

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

(b) No person has any claim under this chapter against the State, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for or on account of any appreciation or depreciation in the value of the property occurring after delivery by the holder to the State Escheator in good faith, as defined in § 1153(d) of this title, except with respect to the State Escheator as provided by and in the circumstances specified in § 1160(a)(2) of this title.

§ 1155. State Escheator's options as to custody.

(a) The State Escheator may decline to take custody of property reported under § 1142 of this title if the State Escheator determines one of the following:

(1) The property has a value less than the estimated expenses of notice and sale of the property.

(2) Taking custody of the property would be unlawful.

(b) A holder may pay or deliver property to the State Escheator before the property is presumed abandoned under this chapter if the holder does all of the following:

(1) Sends the owner of the property the notice required by § 1148 of this title and conforming to § 1149 of this title.

(2) Provides to the State Escheator evidence of the holder's compliance with paragraph (b)(1) of this section.

(3) Includes with the payment or delivery a report regarding the property conforming to § 1142 of this title.

(4) First obtains the State Escheator's consent in a record to accept payment or delivery.

(c) A holder's request for the State Escheator's consent under subsection (b)(3) of this section must be in a record. If the State Escheator fails to respond to the request not later than 90 days after receipt of the request, the State Escheator is deemed to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith, as defined in § 1153(d) of this title.

(d) On payment or delivery of property under subsection (b) of this section, the property is presumed abandoned.

§ 1156. Periods of limitation.

(a) Expiration, before, on, or after [the effective date of this Act], of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute, or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder to file a report or pay or deliver property to the State Escheator under this chapter.

(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 State Escheator's delivery of a notice of an examination to a holder under this chapter, or if the State Escheator reasonably concludes that the holder has filed a report containing a fraudulent or wilful misrepresentation.

§ 1157. No private escheat.

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

§ 1158. Public sale of property.

(a) All property, other than money, delivered to the State Escheator under this chapter shall be sold or disposed of in accordance with this section.

(b) All property, other than money, delivered to the State Escheator under this chapter 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 determines to be in the best interest of the State. The State Escheator may dispose of securities 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.

(c) The State Escheator shall hold the proceeds from a sale of property, other than money, delivered to the State Escheator, less all costs incurred in connection with the sale, in the place of the property and any claimant of the property is entitled only to the money so received, less lawful service charges.

(d) The State Escheator is not liable in any action for any act made in good faith under this section.

§ 1159. Disposal of securities.

If a security is delivered to the State Escheator under this chapter on or after July 1, 2017, the State Escheator shall, subsequent to satisfying the notice requirements of § 1150 of this title, sell the security on any established stock exchange or by such other means as the State Escheator deems advisable as soon as the State Escheator deems practicable after the delivery. The State Escheator may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The State Escheator may sell a security not listed on an established exchange by any commercially-reasonable method.

§ 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 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 from the date notice was mailed by the State Escheator to the rightful owner under § 1150 of this title, 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.

(3) If the claim is made more than 18 months 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.

(b) The State Escheator is not liable in any action for any act of his made in good faith under this section.

§ 1161. Purchaser owns property after sale.

All sales of property made by the State Escheator under this chapter 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.

§ 1162. Military medals.

(a) A financial institution may not sell a medal or decoration awarded for military service in the armed forces of the United States.

(b) A financial institution, with the consent of the respective organization under paragraph (b)(1) of this section, agency under paragraph (b)(2) of this section, or entity under paragraph (b)(3) of this section, may deliver a medal or decoration described in subsection (a) of this section to be held in custody for the owner, to one of the following:

(1) A military veterans organization qualified under 26 U.S.C. §501(c)(19).

(2) The agency that awarded the medal or decoration.

(3) A governmental entity.

§ 1163. Deposit and disbursement of funds.

(a) Subject to the limitations in § 6102(s) of Title 29, the State Escheator shall deposit into the General Fund all moneys or proceeds of property received under this chapter.

(b) The Secretary of Finance shall pay all disbursements, including disbursements for expenses, claims, or storage, made or authorized by the State Escheator in connection with the administration of this chapter upon the presentation of a signed voucher by the State Escheator.

§ 1164. State Escheator to retain records of property.

The State Escheator shall record and retain the holder report filed under § 1142 of this title and the information contained in the report for at least 10 years after the report was filed.

§ 1165. Claim for property by person claiming to be owner.

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

(b) The determination of claims and rights of appeal are as prescribed in § 1167 of this title.

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

(a) The State Escheator shall pay or deliver property to a claimant under § 1165 of this title if the State Escheator receives evidence sufficient to establish to the reasonable satisfaction of the State Escheator that the claimant is the owner of the property.

(b) The State Escheator shall allow or deny the claim and give the claimant notice of the decision in a record. If the claim is denied the State Escheator shall do all of the following:

(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.

§ 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 after the State Escheator sends notice of a 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.

(b) Within 30 days after notice of the Tax Appeal Board's decision, the State Escheator or a claimant may appeal the 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.

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

§ 1168. Payment by State Escheator.

Any claim which is allowed by, or ordered to be paid by, the State Escheator pursuant to § 1165 of this title, together with such costs and disbursements as may be allowed by the Court of Chancery or the Tax Appeal Board, must be paid out of the General Fund. The State Escheator is not liable in any action for any claim paid in good faith.

§ 1169. Allowance of claim for property.

(a) On request of the owner, the State Escheator may sell or liquidate a security and pay the net proceeds to the owner.

(b) At the discretion of the State Escheator, property of an owner is subject to a claim for payment of an enforceable debt that the owner owes in this State for any of the following:

(1) Child-support arrearages, including child-support collection costs and child- support arrearages that are combined with maintenance.

(2) A civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed by a final order of an administrative agency or a final court judgment.

(3) State or local taxes, penalties, and interest that have been determined to be delinquent or as to which notice has been recorded with the Secretary of the State or a local taxing authority.

(c) The State Escheator may make periodic inquiries of state and local agencies in the absence of a claim filed under § 1165 of this title to determine whether owners included in the unclaimed property records of this state have enforceable debts described in subsection (b) of this section.

(d) Before delivery or payment to an owner under subsection (a) of this section of property or net proceeds of a sale of the property, the State Escheator may first apply the property or net proceeds to a debt under subsection (b) of this section that the State Escheator has determined is owed by the owner. The State Escheator may pay the amount to the appropriate state or local agency and notify the owner of the payment.

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

(a) If a person does not file a report required by § 1142 of this title or the State Escheator believes that a person may have filed an inaccurate, incomplete, or false report, the State Escheator may require the person to file a verified report in a form prescribed by the State Escheator. The verified report must do all of the following:

1. State whether the person is holding property reportable under this chapter.

2. Describe property not previously reported or about which the State has inquired or about which there is a dispute as to whether it is reportable under this chapter.

3. State the amount or value of the property.

(b) If the State Escheator believes that a person may have filed an inaccurate, incomplete, or false report, including

a report submitted under § 1170(a)(1) of this title, the State Escheator may authorize a compliance review of that report and the notification requirements of § 1172(a) of this title do not apply. The compliance review must be limited to the contents of the report filed as required by §§ 1142, 1143, and 1170(a) of this title, and all supporting documents related to such reports. If the compliance review results in a finding of a deficiency in unclaimed property due and payable to the State, the State Escheator shall notify the holder in writing of the amount of deficiency within one year from the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the State Escheator may seek to enforce the assessment pursuant to § 1180 of this title or may refer the holder to the Department of State in order to request that the holder enter into an unclaimed property voluntary disclosure agreement under § 1173 of this title. The State Escheator shall not be required to conduct a compliance review under this section prior to initiating an examination under §§ 1171 and 1172 of this title. The filing of a verified report or participation in a compliance review does not preclude the holder from participating in the Secretary of State's voluntary disclosure program under § 1173 of this title.

§ 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.

(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.

§ 1172. Rules and procedures for conducting an examination.

(a) Effective July 1, 2015 and subject to subsection (d) of this section, the State Escheator shall not initiate any new examination of records or an investigation of any person under this section unless the person has first been notified in writing by the Secretary of State that the person may enter into an unclaimed property voluntary disclosure agreement, or the holder fails to otherwise comply with a requirement imposed on such holder pursuant to § 1173 of this title.

(b) Notwithstanding the provisions of § 1173(e)(3) of this title, for any examination authorized by the State Escheator on or before July 22, 2015, except any securities examinations in which estimation is not required, the person under such an examination may notify the State Escheator and the Secretary of State of the person's intent to convert the

pending examination into a review under the Secretary of State's voluntary disclosure program and to enter into the Secretary of State's unclaimed property voluntary disclosure program under § 1173 of this title. The person shall, by July 1, 2017, notify the State Escheator and Secretary of State in writing in a form and manner provided by the State Escheator and the Secretary of State. If such notice is not received within 60 days of the adoption of regulations under § 1176(b) of this title, the person may not convert the examination into a review under the Secretary of State's unclaimed property voluntary disclosure program under § 1173 of this title. The look back period for any such voluntary disclosure permitted under this section is 10 years prior to when property is presumed abandoned under this chapter from the calendar year in which the State Escheator provided the original notice of examination.

(c)(1) For any examination authorized by the State Escheator before [the effective date of this Act], the person under examination may notify the State Escheator of the person's intent to expedite the completion of the pending examination by providing written notification on a form provided by the State Escheator that must be received by the State Escheator within 60 days of the adoption of regulations under § 1176(b) of this title.

(2) If the person provides the written notification under paragraph (c)(1) of this section and 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 written notification and shall waive interest and penalty under §§ 1183 and 1184 of this title.

(3) 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 written notification under paragraph (c)(1) of this section.

(4) 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.

(5) 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.

(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.

(e) The State Escheator shall adopt rules governing procedures and standards for a compliance review under § 1170 of this title and an examination under § 1171 of this title, including rules for use of an estimation, extrapolation, and statistical sampling in conducting an examination.

(f) If the person subject to examination under § 1171 of this title has filed all reports required by § 1142 of this title and has retained the records required by § 1145 of this title, all of the following rules apply:

(1) The examination must include a review of the person's records.

(2) The examination may not be based upon an estimate unless the holder expressly consents in a record to the use of an estimate.

(3) The person conducting the examination shall consider all evidence presented by the person in good faith in preparing the findings of the examination under § 1177 of this title.

(g) Any examination under this section may include the State Escheator utilizing any and all reliable external data, including electronic databases deemed relevant by the State Escheator.

(h) After [the effective date of this Act], 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, except if the State Escheator reasonably concludes that the holder has filed a report containing a fraudulent or wilful misrepresentation.

§ 1173. Voluntary property reporting outreach program.

(a) Notwithstanding any other provision of this title or Chapter 23 of Title 29, the Secretary of State may resolve and compromise claims for property otherwise owing to the State Escheator under this chapter if a holder of such property voluntarily discloses to the Secretary of State such property on or before the deadlines provided in this section.

(1) The Secretary of State shall waive interest and penalty under §§ 1183 and 1184 of this title for holders that complete the voluntary disclosure in good faith.

(2) The Secretary of State shall possess full and complete authority to determine and resolve all such claims consistent with this chapter and exercise such authorities as are granted to the State Escheator under this chapter.

(3) Notwithstanding paragraph (a)(2) of this section, any unclaimed property voluntary disclosure agreement accepted by the Secretary of State is deemed as waiving the right of the Secretary of State and the State Escheator to seek payment of any amounts of property under §§ 1156 or 1179 of this title as to the property voluntarily disclosed by the holder in the agreement, except in circumstances where the Secretary of State reasonably concludes that there has

been a fraudulent or wilful misrepresentation as to any such voluntary disclosure by the holder or those acting on the holder's behalf.

(4) If the Secretary of State is unable to resolve such claims by agreement, the Secretary of State may refer the resolution of such claims to the State Escheator at any time.

(5) The care and custody of all property paid under this section is assumed for the benefit of those entitled to receive the same and the Secretary of State shall have all the responsibilities, duties, and obligations as if such property were recovered by the State Escheator.

(6) The Secretary of State may make such rules and regulations as deemed necessary to enforce this section.

(b) The Secretary of State may request 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 60 days after the request to enter the voluntary disclosure agreement program was mailed by certified mail, the Secretary of State shall refer the person to the State Escheator for examination under § 1171 of this title.

(c) With respect to a person who has indicated in writing the person's intent to enter into an unclaimed property voluntary disclosure agreement under this chapter by completing, executing, and delivering to the Secretary of State a form acceptable to the Secretary of State, the person shall complete a review of its books and records and file reports of property related to the following years:

(1) Beginning January 1, 1996, with respect to any person who enters an unclaimed property voluntary disclosure agreement and makes payment in full or enters into a payment plan no later than June 30, 2016.

(2) With respect to a person who enters an unclaimed property voluntary disclosure agreement and makes payment in full on or after July 1, 2016, the person shall complete a review of the person's books and records starting the first of January for the prior 10 years from when the property is presumed abandoned starting from the calendar year in which the person's intent to enter into an unclaimed property voluntary disclosure agreement was accepted by the Secretary of State.

(d) With respect to any person whose intent to enter into an unclaimed property voluntary disclosure agreement was accepted by the Secretary of State after September 30, 2014, the person shall enter an unclaimed property voluntary disclosure agreement and make payment in full or enter into a payment plan within 2 years from the date the person's intent to enter into an unclaimed property voluntary disclosure agreement was accepted by the Secretary of State. The due date for entering into an unclaimed property voluntary disclosure agreement and making payment in full or entering into a payment

plan may be amended by the Secretary of State.

(e) Notwithstanding any other provision of this section or of this chapter, the Secretary of State may not enter an unclaimed property voluntary disclosure agreement with or otherwise receive or seek payment of any amounts of property from any of the following:

(1) A person who has indicated in writing the person's intent to enter into an unclaimed property voluntary disclosure agreement by completing, executing, and delivering, on or before June 30, 2012, the appropriate form promulgated by the State Escheator. But, the Secretary of Finance and the Secretary of State may permit the person to enter into the voluntary disclosure program administered by the Secretary of State under this section. If a person is permitted to enter the program, the look back period for the voluntary disclosure under this section relates to the date the original notice of intent to enter a voluntary disclosure was completed, executed, and delivered.

(2) A person who has entered a voluntary disclosure agreement with the State Escheator on or before June 30, 2012. But, the Secretary of State may enter an unclaimed property voluntary disclosure agreement with any person with respect to property types or periods or both property types and periods that were not included in the voluntary disclosure agreement executed prior to June 30, 2012, or with respect to the person, its subsidiaries, or related entities that were not included in the voluntary disclosure agreement executed prior to June 30, 2012.

(3) A person to which a notice of examination has been mailed by the State Escheator, except those persons that elect to enroll in the Secretary of State's unclaimed property voluntary disclosure program under § 1172(b) of this title.

(4) A person who had previously enrolled in the Secretary of State's voluntary disclosure agreement program and one of the following occurred:

a. The person formally withdrew from the voluntary disclosure agreement program.

b. The Secretary of State removed the person from the voluntary disclosure agreement program for failure to work in good faith to complete the voluntary disclosure agreement program as soon as practicable.

(f) Each person described in paragraph (e)(1) or (e)(2) of this section shall be accorded the benefit of the same look back periods established in subsection (c) of this section, but the State Escheator shall retain authority over all voluntary disclosure agreements so described.

§ 1174. Records obtained in examination.

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

(1) The records are subject to the confidentiality and security provisions of § 1189 of this title and are not a

"public record" under Chapter 100 of Title 29.

(2) The records may be used by the State Escheator in an action to collect property or otherwise enforce this chapter.

(3) The records may 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.

(4) The records may be disclosed to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in this chapter, if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to § 1189 of this title.

(5) The records must be produced by the State Escheator under an administrative or judicial subpoena or administrative or court order.

(6) The records must be produced by the State Escheator on request of the person that is the subject of the examination.

§ 1175. Evidence of debt or undischarged obligation.

(a) A record showing an unpaid debt or undischarged obligation is prima facie evidence of an obligation. In claiming property from a holder, the State Escheator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing evidence of the unpaid debt or undischarged obligation and passage of the requisite period of abandonment.

(b) A holder may overcome prima facie evidence under subsection (a) of this section by establishing by a preponderance of the evidence that one of the following occurred:

(1) A check, draft, or similar instrument was issued as an unaccepted offer in settlement of an unliquidated amount.

(2) A check, draft, or similar instrument was issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected.

(3) A check, draft, or similar instrument was issued to a party affiliated with the issuer.

(4) A check, draft, or similar instrument was paid, satisfied, or discharged.

(5) A check, draft, or similar instrument was issued in error.

(6) A check, draft, or similar instrument was issued without consideration.

§ 1176. Failure of person examined to retain records.

(a) If a person subject to examination under § 1171 of this title does not retain the records required by § 1145 of this title, the State Escheator may determine the amount of property due using a reasonable method of estimation based on all information available to the State Escheator, including to extrapolation and the use of statistical sampling when appropriate.

(b) The Secretary of Finance, in consultation with the Secretary of State, shall, on or before July 1, 2017, promulgate regulations regarding the method of estimation to create consistency in any examination or voluntary disclosure. These regulations must include permissible base periods, items to be excluded from the estimation calculation, aging criteria for outstanding and voided checks, and the definition of what constitutes complete and researchable records.

§ 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, 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.

§ 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 of the following:

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

(2) 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, or Audit Manager, for a period of 2 years from the time such employee leaves the employ of the State.

§ 1179. Judicial 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 or after the conclusion of an examination of a holder, the State Escheator determines that a holder has underreported unclaimed property due and owing under this chapter, the State Escheator 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. Ninety days after the date on which the State Escheator mails a statement of findings and request for payment, it shall constitute the State Escheator's final determination of the amount of the holder's liability, including interest and penalties, if any, for the unclaimed property specified in the statement of findings and request for payment.

(b) Not later than 90 days after the State Escheator mails a statement of findings, 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.

(c) If the holder pays or delivers property the State Escheator determined must be paid or delivered to the State Escheator at any time after the holder files an action under paragraph (b)(1) of this section, the Court of Chancery shall continue the action as if it had been filed originally as an action for a refund or return of property under paragraph (b)(2) of this section.

(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 is insufficient for its review, it shall remand to the State Escheator for further proceedings.

(e) When a determination under § 1179 of this title becomes final and is not subject to judicial review, the State Escheator may commence an action in the Court of Chancery or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property.

§ 1180. Judicial action to enforce liability.

(a) If any person refuses to pay or deliver property, including penalty or interest on the property, to the State

Escheator as required by this chapter, the State Escheator may bring an action to enforce such payment or delivery in the Court of Chancery in the county in which the holder resides or has a principal place of business or, if no such principal place of business exists, in New Castle County.

(b) In an action under subsection (a) of this section, if no court in this State has jurisdiction over the defendant, the State Escheator may commence an action in a federal court or state court having jurisdiction over the defendant.

§ 1181. Interstate agreement and cooperation.

(a) Subject to subsection (b) of this section, the State Escheator may do both of the following:

(1) Exchange information with another state relating to property presumed abandoned or relating to the possible existence of property presumed abandoned.

(2) Authorize in a record another state or foreign country or a person acting on behalf of the other state or country to examine its records of a holder as provided in § 1171 of this title.

(b) An exchange of information or examination of records under subsection (a) of this section may be done only if the other state has confidentiality and security requirements substantially equivalent to those in § 1189 of this title or agrees in a record to be bound by this State's confidentiality and security requirements.

§ 1182. Action involving another state.

(a) The State Escheator may join other states to examine and seek enforcement of this chapter against any person believed to be holding property reportable under this chapter.

(b) On request of another state, the Attorney General may commence an action on behalf of the other state to enforce, in this State, the law of the other state against a holder of property presumed abandoned and therefore subject to a claim by the other state, if the other state agrees to pay costs incurred by the Attorney General in the action.

(c) The State Escheator may request the official authorized to enforce the unclaimed property law of another state to commence an action to recover property in the other state on behalf of the State Escheator. This State shall pay all costs, including reasonable attorney's fees and expenses, incurred by the other state in an action under this subsection.

(d) The State Escheator may pursue an action on behalf of this State to recover property subject to this chapter but delivered to the custody of another state if the State Escheator believes the property is subject to the custody of the State Escheator.

(e) The State Escheator may retain a private attorney in this State or another state or foreign country to commence an action to recover property on behalf of the State Escheator and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee, or a percentage of the amount or value of property recovered in the action.

(f) Expenses incurred by this State in an action under this section may be paid from property received under this

chapter or net proceeds of the property. Expenses paid to recover property may not be deducted from the amount that is subject to a claim under this chapter by the owner.

§ 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(c) of this title to enter a Department of Finance expedited examination process on or before July 1, 2017, if the holder acts in good faith to complete the examination.

(b) If a person fails to file any report required by this chapter on or before the due date prescribed for the report, determined with regard to any extension of time for filing, unless it is shown that such failure is due to reasonable cause and not willful neglect, the person shall add to the amount of unclaimed property required to be shown on the report the lesser of 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 or a civil penalty of $100 for each day the report is withheld or the duty is not performed, but not more than $5,000.

(c) If a person fails to pay the amount of 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 willful neglect, the person shall add 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 is to 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.

(d) If any part of a deficiency in payment of unclaimed property required to be shown on any report is due to fraud, the person must add 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 subsection applies only in cases where a

report of unclaimed property is filed and only to that part of the deficiency in payment the State Escheator establishes is due to fraud or willful misrepresentation

§ 1184. Other civil penalties.

(a) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this chapter or otherwise willfully fails to perform a duty imposed on the holder under this chapter, the State Escheator may require the holder to pay the State Escheator, in addition to interest as provided in § 1183(a) of this title, a civil penalty of $1,000 for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of $25,000, plus 25% of the amount or value of any property that should have been but was not reported, paid, or delivered as a result of the evasion or failure to perform.

§ 1185. Waiver of interest and penalty.

(a) The State Escheator may, for good cause, waive, in whole or in part, penalties under §§ 1183 or 1184 of this title.

(b) The State Escheator may, for good cause, waive up to 50% of the calculable interest under § 1183 of this title.

§ 1186. When agreement to locate property enforceable.

An agreement by an owner and a person, the primary 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.

§ 1187. When agreement to locate property unenforceable.

(a) Subject to subsection (b) of this section, an agreement under § 1186 of this title is void and unenforceable if it is entered into during the period beginning on the date the property was distributable to the owner and ending 24 months after the payment or delivery.

(b) If a provision in an agreement described in subsection (a) of this section applies to mineral proceeds for which compensation is to be paid to the other person based in whole or in part on a portion of the underlying minerals or mineral proceeds not then presumed abandoned, the provision is void and unenforceable regardless of when the agreement is entered into.

(c) For an agreement under subsection (a) of this section, total fees and costs may not exceed $1,000 or 10% of the value of the property recovered, whichever is less.

(d) An owner or the State Escheator may assert that an agreement described in this section is invalid on a ground other than it provides for payment of unconscionable compensation.

(e) This section does not apply to an owner's agreement with an attorney to contest the State Escheator's denial of a claim for recovery of the property.

§ 1188. Right of owner's agent to recover property held by State Escheator.

(a) An owner that contracts with a person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the owner that is held by the State Escheator may appoint or designate the person as the owner's agent. The appointment or designation must be in a record signed by the owner.

(b) An owner's agent is entitled to receive from the State Escheator all information concerning the property which the owner would be entitled to receive, including information that would otherwise be confidential information under § 1189 of this title.

(c) If authorized by the owner, the owner's agent may bring an action against the State Escheator on behalf of and in the name of the owner.

§ 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 or employee 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 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.

(c) For purposes of this section, "officer or employee" includes present and former officers and employees, and any person currently or formerly employed or retained by the State.

(d) Any violation of this section shall be a misdemeanor, punishable upon conviction by a fine not to exceed $1,000, or imprisonment not to exceed 6 months, or both. The Superior Court shall have exclusive original jurisdiction over such misdemeanor.

§ 1190. Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Section 3. Amend § 4002, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4002. Right and title to abandoned personal property.

Notwithstanding any other provision of the Delaware Code~~, including but not limited to § 1210 of Title 12, to the contrary,~~ to the contrary, including § 1157 of Title 12, upon order of the court as provided in this chapter, any person who holds, stores, safekeeps or otherwise is left with possession of any abandoned personal property, including ~~but not limited to~~ automobiles, motorcycles, boats and furnishings, which has been abandoned by the owner as defined in § 4001 of this title, shall be vested with complete and absolute title to said abandoned personal property and shall have all right to sell, alienate, gift or otherwise dispose of the said abandoned personal property provided such transfer does not violate preliminary injunctions in effect pursuant to § 1509(a)(1) of Title 13.