

SPONSOR: Rep. Viola & Sen. Marshall  
Rep. M. Marshall; Sen. Bonini

HOUSE OF REPRESENTATIVES  
145th GENERAL ASSEMBLY

HOUSE BILL NO. 285

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO ESCHEAT

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

Section 1. Amend Chapter 11, Title 12 of the Delaware code by striking §1156 in its entirety and inserting in lieu thereof a new § 1156 to read as follows:

“§ 1156. State Escheator action and appeals.

(a) If any person refuses to pay or deliver property, including penalty or interest thereon, to the State Escheator as required by this chapter, the State Escheator may bring an action before the Tax Appeal Board (as defined in § 321, Title 30 of the Delaware Code). The procedure before the Tax Appeal Board for such hearings shall be the same as that provided for by § 329 of Title 30, and the Tax Appeal Board shall have the same power to compel the attendance of witnesses and the production of evidence as is provided in § 330 of Title 30.

(b) Any holder aggrieved by a statement of findings or any other decision of the State Escheator may apply for a hearing and determination of a claim with the Tax Appeal Board. The procedure before the Tax Appeal Board for such hearings shall be the same as that provided for by § 329 of Title 30 and the Tax Appeal Board shall have the same power to compel the attendance of witnesses and the production of evidence as is provided in § 330 of Title 30.

(c) Within 30 days after notice of a decision upon such hearing, any party to the hearing may appeal such 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.

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

(e) Notwithstanding the procedural remedies provided by this chapter, no provision herein shall be construed to require the exhaustion of administrative remedies before a holder may pursue other legal, administrative, or judicial actions.”.

Section 2. Amend Chapter 11, Title 12 of the Delaware code by deleting § 1202 in its entirety and inserting in lieu thereof a new § 1202 to read as follows:

“§ 1202. Periods of Limitation.

The State Escheator shall not enforce this chapter for a reportable period more than three years after the holder filed a report with the State Escheator or gave express notice to the State Escheator of a dispute regarding the property. If no report is filed or if a false or

fraudulent report is filed with the intent to evade escheatment of property, then the State Escheator may enforce this chapter at any time.”.

#### SYNOPSIS

This bill amends the escheat statutes to provide an appeals process and a statute of limitations on escheat actions. Holders of abandoned property and others who are requested to pay or deliver property to the State in an escheat action are given the right to an appeal. Appeals will be heard first by the Tax Appeal Board and then by the Court of Chancery, if needed. The three-year statute of limitations starts to run when a holder of abandoned property has filed a report with the State Escheator or notified the State Escheator of a dispute regarding the property. The statute of limitations mirrors the State tax code, which provides a statute of limitations of three years, which starts to run when a tax return is filed. If no report is filed or a fraudulent report is filed, then there is no statute of limitations.