



STATE OF DELAWARE
THE JUSTICE OF THE PEACE COURT

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ALAN G. DAVIS
CHIEF MAGISTRATE

POLICY DIRECTIVE 00-178 (1ST REVISION)

**TO: ALL JUSTICES OF THE PEACE
ALL CIVIL COURT MANAGERS
ALL JUSTICE OF THE PEACE COURT CONSTABLES**

**FROM: ALAN G. DAVIS *ASD*
CHIEF MAGISTRATE**

DATE: JANUARY 3, 2024

RE: TITLE TO ABANDONED PERSONAL PROPERTY

SCOPE

This policy directive establishes that the process for seeking title to abandoned personal property, as defined in 25 *Del. C.* § 4001, shall be orderly, efficient, and fair to all parties involved. In addition, Procedural Memorandum 11-05 also sets out the procedures the Justice of the Peace Court shall follow to accomplish this policy, providing uniformity and clarity for litigants and the Court. In addition, the incorporated procedural memorandum includes new/amended Justice of the Peace Court Civil Forms to process the request for title.¹

POLICY DIRECTIVES AFFECTED

This Policy Directive supersedes and rescinds Policy Directive 00-178 dated June 6, 2000, 1st Supplement dated June 20, 2000, and 2nd Supplement dated December 6, 2001.

¹ The forms specified in this policy directive are promulgated pursuant to the authority granted to the Justice of the Peace Court to prescribe applications, notices, and declarations in simple and non-technical language. 25 *Del. C.* § 4003(d).

EFFECTIVE DATE

This policy shall be effective upon issuance.

JUSTICE OF THE PEACE COURT POLICY

A Justice of the Peace shall issue title to abandoned personal property, pursuant to Chapter 40 of Title 25 of the Delaware Code, only after all statutory and procedural requirements have been met. This policy shall be executed in such a manner to ensure both the protection of the property rights of the owner of goods and chattels and the fair and timely execution of the statutory rights of the petitioner.

DISCUSSION

H.B. 22, signed into law by the Governor on May 11, 2011, amended Chapter 40 of Title 25 of the Delaware Code to simplify the language in § 4001, mirror the advertising and posting requirements of Chapter 39, specify simple and non-technical language in the forms, and add a right of property owners to file an action in replevin as a counterclaim to a petition for title to abandoned property.

The process for a person to obtain that title must be fair in that all parties with an interest in the property have an opportunity to relinquish their interest or declare that interest in Court. The forms, filings, and procedures should be straightforward and in simple and direct language so as to ensure *pro se* litigants may execute the process without exceptional difficulty.

CONCLUSION

This policy directive and Procedural Memorandum 11-05 lays the groundwork for a fair and efficient procedure for handling abandoned personal property applications. Only after all procedural requirements have been met may a Justice of the Peace provide title to abandoned personal property to a person other than its owner.

cc: Honorable Collins J. Seitz, Jr.
Honorable Kathaleen S. McCormick
Honorable Jan R. Jurden
Honorable Carl C. Danberg
Honorable Michael K. Newell
Gayle P. Lafferty, State Court Administrator
All Justice of the Peace Courts
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