

LAWS  
OF THE  
STATE OF DELAWARE

ONE HUNDRED AND NINTH  
SESSION OF THE GENERAL ASSEMBLY

COMMENCED AND HELD AT DOVER

On Tuesday, January 5, A. D.  
1943

AND

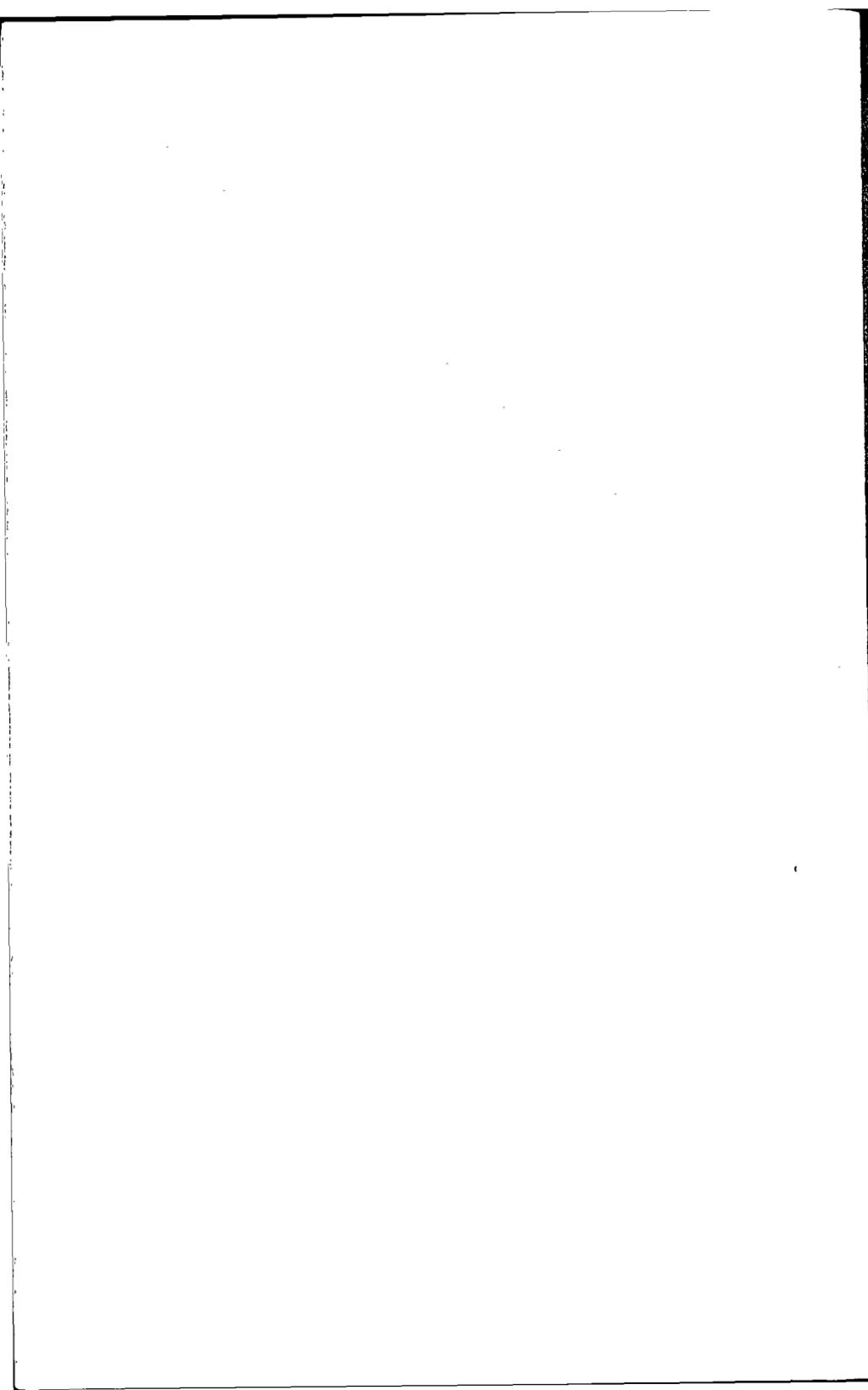
IN THE YEAR OF THE INDEPENDENCE OF THE UNITED STATES  
OF AMERICA, THE ONE HUNDRED AND SIXTY-SEVENTH

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# LAWS OF DELAWARE

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## Constitution of the State of Delaware

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### CHAPTER 1

#### AMENDMENT TO THE CONSTITUTION

#### **AN ACT AGREEING TO THE PROPOSED AMENDMENTS OF ARTICLE 5 OF THE CONSTITUTION OF THE STATE OF DELAWARE RELATING TO ELECTIONS.**

WHEREAS, an Amendment to the Constitution of the State of Delaware was proposed to the Senate in the One Hundred and Eighth Session of the General Assembly, as follows:

“An Act proposing a certain Amendment to Article V of the Constitution of the State of Delaware relating to Elections.

*Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of all the members elected to each House agreeing thereto):*

Section 1. That Article V of the Constitution of the State of Delaware be amended by adding immediately after Section 4 thereof, a new Section to be styled Section 4A as follows:

Section 4A. The General Assembly shall enact general laws providing that any qualified elector of this State, duly registered, who shall be unable to appear to cast his or her ballot at any general election at the regular polling place of the election district in which he or she is registered, either because of being in the public service of the United States or of this State, or because of the nature of his or her business or occupation, or because of his or her sickness or physical disability, may cast a ballot at such general election to be counted in such election district.”

## AMENDMENT TO THE CONSTITUTION

AND WHEREAS, the said proposed amendment was agreed to by two-thirds of all the members elected to each House in the said One Hundred and Eighth Session of the General Assembly; and

WHEREAS, the said proposed amendment was published by the Secretary of State three months before the then next general election, to wit: the general election of 1942, in three newspapers in each County in the State of Delaware, Now Therefore,

*Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of all the members elected to each House of the General Assembly agreeing thereto):*

Section 1. That the said proposed Amendment be and it is hereby agreed to and adopted and that the same shall forthwith become and be a part of the Constitution.

Approval not required.

# Jurisdiction and Property of the State

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## CHAPTER 2

### STATE HOUSE AND STATE OFFICES

#### **AN ACT TO INCREASE THE SALARY OF THE CUSTODIAN OF THE STATE HOUSE.**

*Be it enacted by the Senate and House of Representatives of  
the State of Delaware in General Assembly met:*

Section 1. That 19. Sec. 4 of Chapter 4, Revised Code of Delaware, 1935, be and the same is hereby amended by striking out all of the first sentence of said 19. Sec. 4 of said Chapter 4, and inserting in lieu thereof the following:

On and after July 1, 1943 the Custodian of the State House shall receive an annual salary of Twenty-four Hundred Dollars (\$2400.00), payable monthly, and is authorized and empowered to draw upon the State Treasurer at the end of each month for the same.

The salary of the said Custodian of the State House shall not be further increased by the provisions of an Act entitled "AN ACT MAKING APPROPRIATIONS FOR INCREASES IN THE SALARIES OF EMPLOYEES OF THE STATE FOR THE PERIOD BEGINNING APRIL 1, 1943 AND ENDING JUNE 30, 1943 AND FOR THE FISCAL YEARS BEGINNING JULY 1, 1943 AND JULY 1, 1944, AND ENDING JUNE 30, 1944 AND JUNE 30, 1945 RESPECTIVELY" approved February 23, 1943.

Approved March 29, 1943.

# State Revenue and Supplies

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## CHAPTER 3

### FRANCHISE TAX

#### **AN ACT TO AMEND CHAPTER 6 OF THE REVISED CODE OF THE STATE OF DELAWARE OF 1935, RELATING TO FRANCHISE TAXES.**

*Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:*

Section 1. That Section 64 of Chapter 6 of the Revised Code of Delaware, 1935, as amended by Chapters 5 and 6 of Volume 41, Laws of Delaware, be and the same is hereby amended by striking out the last paragraph in said Section 64 and inserting in lieu thereof the following new paragraph:

Provided, however, that all corporations as herein defined which are regulated investment companies as defined by Section 170 of the Act of Congress commonly called "The Revenue Act of 1942" as now existing or as hereafter amended, shall pay to the State Tax Department as an annual franchise tax, a tax computed either under paragraph (1) hereof, or a tax computed under paragraph (2) hereof, or a tax at the rate of One Hundred Fifty Dollars per annum for each One Million Dollars, or fraction thereof in excess of One Million Dollars, of the average gross assets thereof during the taxable year, whichever be the least. Said average assets for the purposes of this section shall be taken to be the mean of the gross assets on January 1 and December 31 of the taxable year. Any corporation electing to pay a tax under this proviso shall submit to the Secretary of State at the time of filing its annual report as required by the next preceding section of this Chapter, a statement under oath made by its President, a Vice-President, its Treasurer or Secretary, certifying that such corporation is a regulated investment com-

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pany as above defined, and stating the amount of its assets on January 1 and December 31 of the taxable year, and the mean thereof. The Secretary of State may investigate the facts set forth in said statement under oath and if it should be found that said corporation so electing to pay under said proviso shall not be a regulated investment company, as above defined, shall assess upon such corporation a tax under paragraphs (1) or (2) hereof, whichever be the lesser.

Section 2. That Section 71 of Chapter 6 of the Revised Code of Delaware, 1935, as amended, be and the same is hereby amended by adding a new paragraph at the end of said Section 71 as follows:

That all corporations incorporated and existing under the laws of the State of Delaware, whose assets are located in any enemy occupied country or are located at any place where it is made unlawful by any law of the United States of America now or hereafter enacted or by any rule, regulation or proclamation or executive order issued under any such law to send any communications, are relieved and freed from any and all assessment of franchise taxes provided for by the Franchise Tax Law of the State of Delaware which were assessed and unpaid or may have been assessable and payable for any period subsequent to December 7, 1941, and that such corporations are further relieved of the necessity of filing any State reports due or required on or after December 7, 1941.

The provisions of this Section shall be effective until six months after communication with corporations or their officers and agents located in enemy-occupied countries may be lawfully reestablished or until the provisions are repealed by legislative action.

The State Tax Board shall administer the provisions of this Section and may require such evidence, submitted by any officer or agent, as in its judgment may be necessary or desirable to determine whether or not a corporation is entitled to relief from taxes and the filing of reports during the aforesaid period,

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may make such regulations in relation thereto as it may deem desirable or necessary and shall certify to the Tax Department and the Secretary of State the names of all corporations which the said Board has classified as being entitled to relief hereunder.

Section 3. If this Act or any part thereof should be held unconstitutional such holding shall not affect the provisions of said Section 64, as amended by the said Act approved April 9, 1937.

Approved April 15, 1943.

## CHAPTER 4

## INHERITANCE TAX

**AN ACT TO AMEND CHAPTER 6 OF THE REVISED CODE OF THE STATE OF DELAWARE, 1935, AS AMENDED, RELATING TO INHERITANCE TAX.**

*Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:*

Section 1. That Article 10 of Chapter 6 of the Revised Code of Delaware (1935), as amended, be and the same is hereby further amended by adding a new section to be known and styled 142. A. Section 108. A. immediately after 142. Section 108 of said Article 10, as follows:

142. A. Section 108. A. No limitation of time upon the making of any assessment of inheritance tax shall be considered to limit the State Tax Department in making any assessment if the information necessary to complete and determine the true and proper tax has not been furnished the said Tax Department within the time prescribed by law or if any report, inventory, list and statement, or schedule of deductions has not been filed within the time prescribed under this Chapter. If the State Tax Department discovers from information submitted to it or obtained in any other manner subsequent to the assessment of inheritance tax in accordance with 138 Section 104, Revised Code of Delaware, 1935, as amended, that any property of any estate or any portion thereof or any taxable interest therein has not been included or has been included in an amount substantially less than the market value of said property in any inheritance tax report filed with said Tax Department it may at any time within two years after the date of any previous assessment of tax make an assessment of tax and/or an assessment of additional tax and give notice of such assessment in the same manner as is provided by law for original assessments.

The Tax Board upon written request may by agreement in meeting or by written assent extend the time for filing of any report which may include inventory, list and statement or sched-

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ule of deductions and for the payment of any tax, but such extension shall have the effect of extending the time within which any assessment and any payment of tax may be made for a period of time equal to the time so extended and all such extensions shall be recorded in the minutes of the State Tax Board; provided, however, that extension for payment of tax shall be conditioned upon the payment of interest upon the tax at the rate of four per centum per annum as otherwise provided by law. The request and allowance of any extension of time under the provisions of this Section shall in no way relieve any executor, administrator, beneficiary or other person in interest from the payment of the tax.

It shall be the duty of every executor or administrator within twelve months after the death of the donor, grantor, devisor or intestate to file with the State Tax Department a schedule of the deductions provided by law.

Section 2. All acts or parts of acts inconsistent with this act are hereby repealed to the extent of such inconsistency only.

Approved April 15, 1943.