

Appeals to court.

Hearing.

Report.

Order.

Any claimant for any such refund may appeal by petition to the court of common pleas of Dauphin County from an adverse decision of said board, which court shall thereupon hear such testimony as may be offered in support of the claim, and determine whether or not the claimant is entitled to any refund, and, if so, the amount thereof. If the court find that he is so entitled, it shall report its findings to the said board, and order the making of a refund of the proper amount. Thereupon the refund shall be made in the manner hereinbefore provided, with interest as aforesaid. No such appeal shall be entertained, however, unless the claimant shall file with his petition an affidavit that all the proof which he proposes to offer in support of his claim had been presented to the said Board of Public Accounts before that board acted adversely upon his claim.

Payment to depositor by mistake or compulsion.

Any depositary or trustee or other fiduciary, or any debtor, who or which shall, through mistake or compulsion of law, pay the amount of any unclaimed deposit, trust fund, or debt, subject to escheat under the provisions of any act of the General Assembly, to the depositor or beneficiary thereof or person to whom the debt is owing, after such amount shall have been paid into the State Treasury either voluntarily or pursuant to the provisions of this act, may make application for and obtain a refund thereof from the State Treasury in the manner and subject to the conditions hereinbefore in this section provided.

Refund from State Treasury.

APPROVED—The 21st day of April, A. D. 1921.

WM. C. SPROUL.

No. 118.

AN ACT

To amend an act, entitled "An act providing for the payment into the State Treasury of unclaimed funds in the hands of fiduciaries; defining the term fiduciary; providing for the refunding of such funds from the State Treasury with interest to persons entitled thereto, and making an appropriation therefor; prohibiting the discharge of such fiduciaries, the release of their sureties, or the final distribution of funds in their possession, until after compliance with the provisions of this act; and imposing penalties," approved the sixteenth day of May, Anno Domini one thousand nine hundred and nineteen (Pamphlet Laws, one hundred sixty-nine).

Department of the Auditor General.

Fiduciaries.

Amendments to the act of May 16, 1919 (P. L. 169).

Section 1. Be it enacted, &c., That section three of an act, entitled "An act providing for the payment into the State Treasury of unclaimed funds in the hands of fiduciaries; defining the term fiduciary; providing for the refunding of such funds from the State Treasury with interest to persons entitled thereto, and making an appropriation therefor; prohibiting the discharge of such fiduciaries, the release of their sureties, or the

final distribution of funds in their possession, until after compliance with the provisions of this act; and imposing penalties," approved the sixteenth day of May, Anno Domini one thousand nine hundred and nineteen (Pamphlet Laws, page one hundred sixty-nine), which reads as follows:—

"Section 3. Whenever the statement filed by any receiver in compliance with the provisions of the second section of this act shall show any unclaimed funds in his possession, the Attorney General shall, at the suggestion of the Auditor General, apply by petition, before the audit or adjudication of such account, to the court having jurisdiction of the accounts of such receiver, for an order directing the payment of so much of said funds as shall remain unclaimed at the date of said application into the State Treasury, to be reimbursed therefrom upon application by the owner thereof in the manner hereinafter provided.

Section 3, cited
for amendment.

"A copy of said petition shall be served upon the receiver, and upon proof of such service, the said court shall *proceed to determine the matter by hearing upon the audit or adjudication of such account.* If any of such funds are claimed at the hearing by persons lawfully entitled thereto, or if it shall appear to the satisfaction of the court that any of the said funds have been claimed prior to said hearing by persons lawfully entitled thereto, or that any of said funds were not properly returnable by the receiver under the provisions of this act, the court shall order said funds to be paid to said claimants or to remain in the hands of the receiver, as the facts shall warrant. If the court shall be of the opinion that the efforts theretofore made by the receiver to locate and pay the owners of the remaining funds have been sufficient, it shall order said funds to be forthwith paid into the State Treasury to the credit of the Commonwealth; otherwise it shall order such publication of notice to the owners of said funds as it may deem proper, after which publication and proof thereto, it shall likewise order said funds, the owners of which have not been located within sixty days after the conclusion of said advertising, to be similarly paid into the State Treasury to the credit of the Commonwealth.

"No receiver whose statement, filed in compliance with the provisions of this act, shall show any unclaimed funds to be in his possession, shall be discharged, nor his sureties released, nor any final distribution of the funds in his possession made, until he shall have filed in court the receipt of the State Treasurer for the moneys so paid. On the compliance by the receiver with the said order of the court, as evidenced by said receipt, the receiver and his sureties shall be relieved from all liability for the said funds so paid into

the State Treasury," be, and the same hereby is, amended so as to read as follows:—

Receivers.
Unclaimed funds.
Shown by statement.
Discovered by Auditor General.

Petition of Attorney General.

Section 3. Whenever the statement filed by any receiver in compliance with the provisions of the second section of this act shall show any unclaimed funds in his possession, or whenever the Auditor General shall discover any such unclaimed funds in the possession of a receiver although no statement thereof has been filed by such receiver in compliance with the provisions of this act, the Attorney General shall, at the suggestion of the Auditor General, apply by petition, before the audit or adjudication of such account, to the court having jurisdiction of the accounts of such receiver, for an order directing the payment of so much of said funds as shall remain unclaimed at the date of said application into the State Treasury, to be reimbursed therefrom upon application by the owner thereof in the manner hereinafter provided.

Service of petition.

Hearing.

Notice.

Disposition of funds lawfully claimed.

A copy of said petition shall be served upon the receiver, and upon proof of such service, the said court shall, when the audit of the account is presented to it for approval and final adjudication, and before or at the time of making a decree of final distribution, pass upon the prayer of such petition after hearing held thereupon, and it shall be the duty of the auditor of the account to give timely notice to the Attorney General of the date fixed for the presentation of his audit. If any of said funds are claimed at the hearing by persons lawfully entitled thereto, or if it shall appear to the satisfaction of the court that any of the said funds have been claimed prior to said hearing by persons lawfully entitled thereto, or that any of said funds were not properly returnable by the receiver under the provisions of this act, the court shall order said funds to be paid to said claimants or to remain in the hands of the receiver, as the facts shall warrant. If the court shall be of the opinion that the efforts theretofore made by the receiver to locate and pay the owners of the remaining funds have been sufficient, it shall order said funds to be forthwith paid into the State Treasury to the credit of the Commonwealth; otherwise it shall order such publication of notice to the owners of said funds as it may deem proper, after which publication and proof thereto, it shall likewise order said funds, the owners of which have not been located within sixty days after the conclusion of said advertising, to be similarly paid into the State Treasury to the credit of the Commonwealth.

Sufficient effort to find owners.

Payment into State Treasury.
Notice to owners.

Unclaimed funds at final audit of account.

Whenever, on the audit of the final account of any receiver, it shall appear to the court having jurisdiction of his accounts that such receiver has unclaimed moneys in his possession subject to being paid into the State Treasury under the provisions of this act, the said court may of its own motion order the same to be paid

into the State Treasury to the credit of the Commonwealth, whether a statement of such moneys has been filed and a petition by the Attorney General presented for the payment of the same into the State Treasury as required by the provisions of this act or not, in the same manner as is herein provided in cases where a statement has been filed and a petition presented.

No receiver whose statement, filed in compliance with the provisions of this act, shall show any unclaimed funds to be in his possession, shall be discharged, nor his sureties released, nor any final distribution of the funds in his possession made, until he shall have filed in court the receipt of the State Treasurer for the moneys so paid. On the compliance by the receiver with the said order of the court, as evidenced by said receipt, the receiver and his sureties shall be relieved from all liability for the said funds so paid into the State Treasury.

Discharge of receiver, sureties, etc.

Section 2. That section five of the said act, approved the sixteenth day of May, Anno Domini one thousand nine hundred nineteen (Pamphlet Laws, page one hundred sixty-nine), which reads as follows:—

“Section 5. Whenever on the audit or adjudication of the account of any fiduciary there shall be and remain in his possession any moneys not awarded to any claimant or claimants, or any moneys which shall have been awarded to any claimant or claimants the whereabouts whereof, or that of their legal representatives, the fiduciary has been unable to ascertain, the fiduciary shall, within sixty days after the date of said audit or adjudication, file in the court having jurisdiction of his account a sworn statement of such unawarded or unclaimed moneys, with duplicate, in the same form and manner prescribed in the second section of this act, and thereupon proceedings to secure the payment of such moneys into the State Treasury, to be refunded as hereinbefore provided, shall be had, similar in all respects to those hereinbefore provided for in cases where a statement of unclaimed moneys is filed at or before the filing of the final account of the receiver, except that in proceedings under this section, the court shall by its order provide for the serving of a copy of the petition upon the fiduciary, and shall fix a day for a hearing upon said petition. The fiduciary and his sureties shall be relieved from all liability for any funds paid into the State Treasury as the result of proceedings under *the provisions of this section*.

Section 5, cited for amendment.

“If said fiduciary shall fail or neglect to file the statement required by the provisions of this section, the unawarded or unclaimed moneys in his hands which should have been reported in said statement shall, when ascertained, nevertheless be subject to be paid into the State Treasury upon proceedings had in the manner provided by this act.

"Any fiduciary failing to file the statement required to be made by this section shall be subject to a penalty of one thousand (\$1,000.00) dollars, to be recovered to the use of the Commonwealth in an action of assumpsit by the Attorney General, but if the fiduciary be a corporation or association, then the officer or person executing and filing the account shall be personally subject to the penalty.

"No fiduciary shall be discharged, nor his sureties released, and no final distribution of funds in his possession shall be authorized or permitted, so long as he has in his possession any funds subject to payment into the State Treasury under the provisions of this act," be, and the same hereby is, amended so as to read as follows:—

Fiduciaries.

Unclaimed funds.

Sworn statement thereof to be filed with court.

Procedure.

Service.

Court may act on motion or its own initiative.

Section 5. Whenever, on the audit or adjudication of the account of any fiduciary, there shall be and remain in his possession any moneys not awarded to any claimant or claimants, or any moneys which shall have been awarded to any claimant or claimants the whereabouts whereof, or that of their legal representatives, the fiduciary has been unable to ascertain, the fiduciary shall, within sixty days after the date of said audit or adjudication, file in the court having jurisdiction of his account a sworn statement of such unawarded or unclaimed moneys, with duplicate, in the same form and manner prescribed in the second section of this act, and thereupon proceedings to secure the payment of such moneys into the State Treasury, to be refunded as hereinbefore provided, shall be had, similar in all respects to those hereinbefore provided for in cases where a statement of unclaimed moneys is filed at or before the filing of the final account of a receiver, except that in proceedings under this section, the court shall by its order provide for the serving of a copy of the petition upon the fiduciary, and shall fix a day for a hearing upon said petition.

In any such case of unawarded moneys or of moneys awarded to claimants the whereabouts whereof, or that of their legal representatives, the fiduciary has been unable to ascertain, the court having jurisdiction of his accounts may, upon motion or on its own initiative, in its discretion, order the payment of such moneys into the State Treasury to the credit of the Commonwealth, whether the statement required to be filed by this section has been in fact filed or not, and whether or not a petition praying for an order for the payment of such moneys into the State Treasury has been filed by the Attorney General, and such payment shall have the same force and effect in all respects as if the same had been made pursuant to an order issued in compliance with the prayer of a petition therefor filed by the Attorney General as hereinbefore in this act provided.

The fiduciary and his sureties shall be relieved from all liability for any funds paid into the State Treasury as the result of proceedings under *any provision of this act.*

Release of
fiduciary and
sureties.

If said fiduciary shall fail or neglect to file the statement required by the provisions of this section, the unawarded or unclaimed moneys in his hands which should have been reported in said statement shall, when ascertained, nevertheless be subject to be paid into the State Treasury upon proceedings had in the manner provided by this act.

Failure of
fiduciary to file
statement.

Any fiduciary failing to file the statement required to be made by this section shall be subject to a penalty of one thousand (\$1,000.00) dollars, to be recovered to the use of the Commonwealth in an action of assumption by the Attorney General, but if the fiduciary be a corporation or association, then the officer or person executing and filing the account shall be personally subject to the penalty.

Penalty.

No fiduciary shall be discharged, nor his sureties released, and no final distribution of funds in his possession shall be authorized or permitted, so long as he has in his possession any funds subject to payment into the State Treasury under the provisions of this act.

Discharge of
surety, etc.

Section 3. That the said act, approved the sixteenth day of May, Anno Domini one thousand nine hundred nineteen, be, and it hereby is, further amended by the addition of the following section:—

Section 6A added.

Section 6A. Whenever any fiduciary, on the filing of his final account, shall be possessed of any real estate or of any chattels, which, under existing law, he has no authority to expose to sale, and is unable to ascertain that any person or persons is or are entitled to take the same, or, if there be any such person or persons, he shall have been unable to ascertain the residence or address thereof, no information in escheat shall be made to or accepted by the Auditor General, and no escheator shall be appointed, but the fiduciary shall apply by petition, to the court having jurisdiction of his accounts, for an order directing the sale of such chattels and of such real estate situate in the county for which the said court is constituted, and the said court shall thereupon, if no valid cause be shown to the contrary, order and direct the fiduciary to sell said real estate or chattels, in such manner and form, and upon such advertisement, as the court shall direct, and to execute and deliver a good and sufficient deed or deeds to the purchaser of such real estate. In the case of an application for the sale of real estate, the fiduciary shall give notice, in such manner as the court may direct, to all mortgagees or lien creditors, of the time and place fixed for such sale. Where any such real estate is situate in any other county than that for

Real estate
and chattels.

Owners or resi-
dences unascertainable.

Petition to
court.

Sale under
order of court.

Deeds.

Notice of sale.

Real estate in
another county.

which the court having jurisdiction of the accounts of the fiduciary is constituted, a petition praying for an order for the sale of the same shall be made to the court of common pleas in and for the county where said real estate is situate, and proceedings thereupon shall be had as are hereinbefore provided for.

Title acquired at sale.

The title acquired by all purchasers of real estate and chattels sold under and by virtue of the provisions of this section shall be absolute and indefeasible for all such estate or estates as shall have been in the possession of the decedent person or corporation for whom the fiduciary is acting. And the sales shall have like effect as to the discharge of mortgages, judgments, liens, or other incumbrances upon the said real estate as sales made by decree of any of the several orphans' courts of the Commonwealth for the discharge of the debts of decedents now have or may hereafter have in the several counties of this Commonwealth under existing laws. And it shall be the duty of the court to decree the proper application of the purchase money of said property, with the aid of an auditor when deemed necessary, to the discharge of the various mortgages, judgments, liens, or other incumbrances upon said real estate.

Effect of sale upon liens.

Application of purchase money.

Disposition of net proceeds.

The net proceeds of such sale shall be retained by the fiduciary, who shall include the same in the statement of unclaimed moneys required to be filed under the provisions of this act, whereupon proceedings shall be had to secure the payment of the same into the State Treasury to the credit of the Commonwealth in the manner provided in section five of this act, subject to being refunded at any time to the owners of the real estate or chattels so sold, or their legal representatives, in the manner provided in section four of this act.

Effect upon tax titles.

No sale of real estate under the provisions of this section shall be deemed or taken to invalidate any title previously acquired thereto under a sale thereof for unpaid taxes, or to authorize the purchaser to redeem said real estate in such case.

Section 8 added.

Section 4. That the said act, approved the sixteenth day of May, Anno Domini one thousand nine hundred nineteen, be, and it hereby is, further amended by the addition of the following section:—

Appeals to Supreme Court.

Section 8. An appeal to the Supreme Court may be taken from any order made by any court under the provisions of this act, by either the Commonwealth or the respondent to the petition whereon said order is made, at any time within thirty days from the date of said order.

APPROVED—The 21st day of April, A. D. 1921.

WM. C. SPROUL.