

Why Escheatment Matters

Description

Article by Carol Frye

Escheatment is often overlooked by title companies, yet it serves several critical purposes:

Legal Compliance and Avoiding Penalties

Failure to comply with Virginia's escheatment laws can result in significant penalties. Under Virginia Code 55.1-2528, entities that fail to file an unclaimed property report or to submit abandoned assets on time may face civil fines of up to \$100 per day, with a maximum penalty of \$5,000 per report. There have been cases where companies faced substantial legal consequences for failing to properly escheat funds. In one notable instance, a title company had to pay over \$33 million after failing to escheat \$9.5 million in unclaimed escrow funds.

Financial Protection

Beyond legal requirements, regular escheatment helps maintain clean and properly reconciled escrow accounts, which is essential for title companies. Regular escheatment reduces the risk of dormant funds being targeted for misappropriation and ensures accurate financial reporting. There have been numerous documented cases where title company employees have stolen funds from dormant escrow accounts. In one case, a title company employee pleaded guilty to wire fraud after embezzling almost \$4 million from company escrow accounts for personal use.

Corporate Governance and Auditing

With increased scrutiny on corporate financial practices, maintaining compliance with unclaimed property laws helps companies avoid both financial and reputational damage. Unclaimed property compliance is increasingly considered during financial audits and corporate acquisitions.

The Escheatment Process: Step-by-Step Guide

Deadline and Eligibility Requirements

- All title companies must submit their escheatment reports and payments to the Virginia Treasury by **November 1st each year**.
- You must report funds that have been unclaimed for at least one year as of June 30th of the current year.
- A check qualifies for escheatment after just one unsuccessful attempt to deliver to the recipient. You do not need to make multiple attempts to deliver a check before it becomes eligible for escheatment.

STEP 1 ?? Review Outstanding Disbursements

- Generate a report of all uncashed checks in your system
- Identify checks that meet the age requirement (unclaimed for at least one year as of June 30th)

STEP 2 ?? Manage Different Types of Funds

- Standard escheatment: Individual amounts over \$100 that require due diligence
- Aggregate reporting: Combine all amounts under \$100 into one single sum, however, all identifying information must be provided for each amount. A spreadsheet containing this information is accepted.
- Unknown owner funds: Use the ??unknown? classification for funds where you cannot identify the rightful owner

STEP 3 ?? Perform Due Diligence (for amounts over \$100)

- Mail due diligence letters at least 60 days prior to November 1st ?? sample due diligence letter on Virginia Treasury website
- Mail by first class mail to recipients last known address
- Required Content:
 - Your title company's name, address and contact information
 - Check number, date and amount
 - Clear statement that funds will be turned over to the State of Virginia if not claimed within 30 days
 - Instructions for claiming funds
- Keep copies of all letters in your records and maintain evidence of mailing
- Once all letters have expired or you reissued a check after contact by recipient, you are ready to prepare and submit your escheatment

STEP 4 ?? Submit Your Report and Payment

- **For reports with 25 or fewer properties**
 - Access the Virginia Treasury portal at vamoneysearch.gov
 - Click ??Reporting Property? in the upper right corner
 - Follow the online submission process
- **For reports with more than 25 properties**
 - You must use the NAUPA format (a standardized electronic format)
 - Work with one of the three approved service providers listed on the Treasury website (fees apply)
 - Use specialized unclaimed property software that generates NAUPA files
- **Payment Methods**
 - ACH debit (processed through the portal)
 - Wire transfer (instructions provided during submission)
 - Check by mail (slower processing)

We Understand Your Challenges

We recognize that escheatment can be a demanding process for title companies already managing a full workload of closings, title searches, and client services. The detailed requirements for due diligence, documentation, reporting and fund transfers add an administrative burden to your already busy schedule. Many title companies find it difficult to:

- Allocate staff time for identifying and tracking dormant funds
- Navigate the technical requirements of the NAUPA reporting format
- Keep up with the changes in escheatment laws and regulations
- Maintain the detailed documentation required for compliance
- Balance escheatment duties with core business operations

Our team specializes in helping title companies manage their escheatment obligations efficiently while minimizing disruption to your core business. We offer:

- Consultation on your specific escheatment position
- Review of your current processes for compliance gaps
- Assistance with preparing due diligence letters
- Help with generating properly formatted reports
- Guidance on establishing ongoing escheatment procedures

Don't let escheatment compliance add unnecessary stress to your operation. Contact us today for a no-obligation discussion about how we can help streamline your escheatment process.

Escrow Resolution Services

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Carol Frye is the owner of Escrow Resolution Services, LLC, a company dedicated to assisting title companies with cleaning up their escrow accounts since February 2015. Since the inception of Escrow Resolution Services, the company has amassed clients from up and down the East Coast. The company has assisted numerous clients as they navigate through regulatory or legal situations related to the title industry.

Carol was an enforcement officer with the Maryland Insurance Administration from January 2012 to December 2014. Her primary responsibility was ensuring title companies were in compliance with state regulations governing title producers. Several of her investigations resulted in the discovery of misappropriation as a result of funds held in dormant escrow accounts, which sparked her passion to ensure that escrow accounts maintained by title producers are appropriately disbursed. The knowledge and expertise gained during her time with the MIA has proven invaluable as she works with title agents to determine appropriate disbursement of dormant funds, whether returned directly to the rightful owner(s) or escheated in compliance with each state's regulations.

Prior to becoming an enforcement officer, Carol was employed by the Anne Arundel County Police Department. Beginning with patrol, Carol spent twenty two years in various capacities as a child abuse and sex crimes investigator, teaching a drug education program to fifth graders, taking on the media as the public information officer, and her last assignment as executive protection to the county executive of

Anne Arundel County. After her retirement, she spent eleven years conducting extensive background investigations for those in government service requiring the top levels of security clearances.

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