

CHAPTER 284
FORMERLY
HOUSE SUBSTITUTE NO. 1 FOR
HOUSE BILL NO. 209
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE ADMINISTRATION OF SCHOOL PROPERTY TAX CREDITS.

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

Section 1. Amend § 1917, Title 14 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) The receiver of taxes and county treasurer shall collect school taxes in the same manner and at the same time as provided by law for the collection of taxes for other purposes, and, except as provided in subsection (c) of this section, shall allow no abatement or discount upon any taxes levied for school purposes required to be collected by them. The Receiver of Taxes and County Treasurer for New Castle County only shall, after September 1 in the year in which the tax rolls shall be delivered to them, assess a penalty of 5% to taxes which are due and owing but unpaid, and shall each month thereafter add to such unpaid taxes a penalty of 1% per month until the same shall be paid. The Receiver of Taxes of Kent and Sussex Counties only shall, after September 30 in the year in which the tax rolls shall be delivered to them, assess a penalty of 1% per month until the same shall be paid.

(b) All money so collected shall be paid to the State Treasurer and shall be deposited by the State Treasurer in a separate account in the depository for other school moneys to the credit of the district.

(c)(1) If authorized by majority vote of the whole school board of the local school district pursuant to § 6102(q) of Title 29, there shall be allowed a credit against taxation imposed pursuant to this chapter on the valuation of any qualified property. For purposes of this subsection, "qualified property" shall mean property owned and occupied as a dwelling by and as the principal residence of a qualified person. A "qualified person" is a person who, as of June 30 immediately prior to the beginning of the tax county fiscal year, is of the age of 65 or more. For claimants establishing legal domicile in this State after December 31, 2012, only claimants who, as of June 30 immediately prior to the beginning of the county fiscal year, have been legally domiciled within the State for a period of at least 3 consecutive years are eligible to receive a credit. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this section. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State shall be upon the claimant. The maximum such credit authorized by vote of local school boards shall be the lesser of:

a. 50% of such tax remaining after taking into account any exemption pursuant to Title 9 and Title 22 and any tax reduction pursuant to § 6102 of Title 29; or

b. \$500.

The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to § 6102 of Title 29.

(2) No credit against taxation on the valuation of real property as provided in this subsection shall be allowed except in accordance with a form of written application prescribed by the Secretary of Finance in consultation with the receiver of taxes and county treasurer and provided by the receiver of taxes and county treasurer for use by the claimants under this subsection. Such application shall be filed with and received by the receiver of taxes or county treasurer as follows:

a. For tax years beginning on or after May 1, 2000, but before May 1, 2001, no later than February 16, 2001.

b. For all subsequent tax years, no later than ~~September 1 immediately following~~ April 30 immediately prior to the beginning of that tax year.

(3) The Secretary of Finance shall have the authority to waive the date of application in the case that an individual is financially disabled defined herein as unable to manage such individual financial affairs by reason of a medically determinable physical or mental impairment (excluding impairment caused by voluntary use of alcohol or unlawful use of a controlled substance as defined in Chapter 47, Title 16) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, but shall not include individuals for whom an individual's spouse, guardian, or any other person is authorized to act on behalf of such individual in financial matters.

(4)a. Where title to property on which a credit is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, claimant shall not be allowed a credit against that claimant's interest in said property in excess of the assessed valuation of that claimant's proportionate share in said property, which proportionate share, for the purposes of this subsection, shall be deemed to be equal to that of each of the other tenants unless it is shown that the interests in question are not equal, in which event claimant's proportionate share shall be as shown.

b. Nothing in this subsection shall preclude more than 1 tenant, whether title be held in common or joint tenancy, from claiming a credit against the property so held, but no more than the equivalent of 1 full credit in regard to such property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, the credit shall be apportioned between or among them in proportion to their interests. Property held by husband and wife as tenants by the entirety shall be deemed wholly owned by each tenant, but not more than 1 credit in regard to such property shall be allowed in any year.

c. Right to claim a credit under this subsection shall extend to property the title to which is held by a partnership to the extent of the claimant's interest as a partner therein, or by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim a credit under this subsection, but not to property the title to which is held by a corporation.

d. Right to claim credit under this subsection shall be withdrawn for the subsequent tax year from any taxpayer who has not paid in full such taxpayer's property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer. Taxpayers who fail to pay in full their property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer may qualify for credits under this subsection in subsequent tax years upon the payment in full of property taxes and penalties owed prior to the beginning of the subsequent tax year.

(5) The Secretary of Finance may, in consultation with the receiver of taxes and county treasurer, promulgate such rules and regulations and prescribe such forms as the Secretary shall deem necessary to implement this subsection. The Secretary may require that any return or other writing required to be filed with respect to the credit allowed under authority of this subsection be signed by the maker of such return or writing under oath or affirmation, subject to the penalties of perjury.

(6) An aggrieved taxpayer may appeal from the disposition of a claim for credit under this subsection in the same manner as provided for appeals from property tax assessments generally.

(7) Whenever the Secretary of Finance shall determine that a credit has been claimed in disregard of the conditions under which such claims may be made and for the Secretary has authorized payment under § 1919(c) or (d) of this title, the Secretary may assess such claimant for the amount of the credit and, unless it is shown that such disregard is due to reasonable cause and not due to willful neglect, with a penalty of 20% of the credit claimed along with interest at 1% for any month or fraction of a month commencing on the date on which the claim for credit was filed.

Section 2. This Act shall be effective for county tax and fiscal years beginning after January 1, 2012.

Approved June 28, 2012