



SPONSOR: Rep. Chukwuocha & Rep. Bolden & Sen. Brown  
Reps. Bennett, Freel, Griffith, Heffernan, Longhurst,  
Osienki, Schwartzkopf, K. Williams; Sens. Lockman,  
S. McBride

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 458

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO REAL PROPERTY ACQUISITION BY THE CITY OF WILMINGTON.

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

1 Section 1. Amend Chapter 95, Title 29 of the Delaware Code by making insertions as shown by underline and  
2 deletions as shown by strike through as follows:

3 § 9501D. The City of Wilmington and eminent domain.

4 (a) The provisions of § 9501A of this title and the particular requirement of a “public use” for the exercise of  
5 eminent domain separately referred to in § 9505(15) of this title shall not apply to the acquisition of property or property  
6 rights by the City of Wilmington if all of the following conditions have been satisfied.

7 (1) The property or property rights are vacant or abandoned.

8 (2) The Council and Mayor of Wilmington have by ordinance declared their acquisition to be a part of a  
9 community development plan necessary to prevent the decline or decay of the property or its surrounding area.

10 (b) For purposes of this section:

11 (1) “Abandoned” means the property is unoccupied under circumstances showing the owner’s apparent  
12 desertion of their duty to maintain the property in a lawful condition. In addition to any other relevant circumstances, a  
13 court may consider whether the property has been unoccupied for any residential or commercial purpose by a person  
14 with a right to occupy the property for a substantial period of time, whether the property is in violation of the housing,  
15 property maintenance, building or other applicable technical codes or has a substantial history of such violations, and  
16 whether property taxes have been paid regularly paid or are delinquent.

17 (2) “Vacant” means a building or structure, intended for residential or commercial use, in which no person  
18 currently conducts a lawfully licensed business or lawfully resides in any part of building or structure for a period of  
19 three years or more, no person conducts a lawfully licensed business or lawfully resides or lives in any part of the  
20 building or structure on a permanent, non-transient basis. “Vacant” does not include a building or structure undergoing  
21 construction, rehabilitation, or renovation if such is proceeding without unreasonable delay.

22           (c) When a government body or condemning authority approves a prospective or actual taking, the property owner  
23 may raise the required determination of whether property is abandoned or vacant as a defense under this section.

SYNOPSIS

This Act authorizes the City of Wilmington to acquire vacant or abandoned property through the exercise of eminent domain when an ordinance declares the acquisition part of a community development plan necessary to prevent the decline or decay of the property or its surrounding area. This bill also defines “abandoned” and “vacant” for purposes of the section.