



SPONSOR: Rep. Bolden & Rep. Dorsey Walker & Sen. Mantzavinos
Sens. Ennis, Wilson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 397

AN ACT TO AMEND TITLE 29 AND TITLE 30 OF THE DELAWARE CODE RELATED TO BUDGET AND FISCAL REGULATIONS FOR STATE AGENCIES AND ADMINISTRATIVE RESPONSIBILITIES OF THE DEPARTMENT OF FINANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

1 Section 1. Amend § 6533, Title 29 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 6533. Limitation on appropriations.

4 (e) There is hereby established a Revenue Refund Account within the Office of the State Treasurer. Prior to
5 depositing receipts and moneys of this State to the credit of the State Treasurer in the General Fund, the State Treasurer and
6 the Secretary of Finance shall determine the appropriate refund amounts by major categories and pay same into the
7 Revenue Refund Account.

8 (1) ~~Total refunds of overpayments of taxes and fees required by Delaware state law to be paid during any~~
9 ~~fiscal year, as certified by the State Treasurer and the Secretary of Finance as necessary for such payments, shall not~~
10 ~~exceed the estimate adopted by the Delaware Economic and Financial Advisory Council (or its successor entity) as of~~
11 ~~each reporting date.~~ [Repealed.]

12 Section 2. Amend § 8318, Title 29 of the Delaware Code by making deletions as shown by strike through and
13 insertions as shown by underline as follows:

14 § 8318. Compensatory payments for certain exempt properties owned by the State.

15 (d) In any fiscal year, if total compensatory payments, as calculated under subsection (a) of this section, exceeds
16 the amount allocated in subsection (c) of this section, then the payments to be received by each county seat shall be the
17 product of ~~\$3,000,000~~ the amount appropriated to the county seats, not to exceed the total payment amount established in
18 subsection (c) of this section, multiplied by a fraction, the numerator of which is the payment that would otherwise be due
19 to a county seat under subsections (a) and (b) of this section and the denominator is the total of all compensatory payments
20 that would otherwise be due to all county seats ~~pursuant to~~ under subsections (a) and (b) of this section. The Secretary of

Finance has the right to withhold payment to any county seat until the assessments and appraisals of all 3 counties have been submitted and verified.

Section 3. Amend § 369, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 369. Required employee background checks.

(b) All current employees, contractors, and any subcontractors thereof, of the Department who have access to federal tax information shall be required to submit to subsequent background checks as provided in subsection (c) of this section not less frequently than once every ~~10 years~~ 5 years to ensure compliance by the Department with IRS Publication 1075.

Section 4. Amend § 2020, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2020. Definitions.

As used in this subchapter:

(3) "Targeted area" is: means any of the following:

a. Any real property located within this State that is owned by the State, any political subdivision of the ~~State~~ State, or any agency or instrumentality of the State or its political ~~subdivisions~~; subdivisions.

b. Any real property located within this State that is owned by an organization described in § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)) which is organized and operated, and which holds such real property, solely for the purpose of fostering economic development within this ~~State~~; State.

c. Any area located within this State that has been approved by the United States Department of Commerce as a general purpose foreign trade ~~zone~~; zone.

d. ~~Any of the following 1990 Delaware census tracts, as defined by the United States Department of Commerce, Bureau of the Census:~~

1. ~~Within the City of Wilmington: 1990 Delaware census tracts 001, 006.01, 006.02, 007, 008, 009, 016, 017, 019 and 020;~~

2. ~~Within New Castle County (other than the City of Wilmington): 1990 Delaware census tracts 101.1, 107, 128, 129, 145.02, 153, 154, 155, 162 and 167;~~

3. ~~Within Kent County: 1990 Delaware census tracts 408, 410, 414, 425 and 430; and~~

4. ~~Within Sussex County: 1990 Delaware census tracts 504, 506, 514, 518 and 519; or [Repealed.]~~

e.1. ~~When socio-economic data becomes available from the 2000 Census, Following each decennial census, any census tract designated by the Director of the Division of Small Business Business, in conjunction with the Secretary of Finance shall evaluate all census tracts using Finance, based on all of the following criteria:~~

~~A. Percent of persons below poverty level; level.~~

~~B. pereent Percent of households receiving public assistance; assistance.~~

~~C. unemployment rate; Unemployment rate.~~

~~D. median Median household income; income.~~

~~E. a A significant presence of vacant property within the target area; census tract.~~

~~F. the The character of the community; community.~~

~~G. and population Population.~~

~~2. Based on these criteria census tracts shall be reallocated the criteria under paragraph (3)e.1. of this section, the Director of the Division of Small Business, in conjunction with the Secretary of Finance, shall allocate targeted area status on the following basis:~~

~~A. Ten in the City of Wilmington; Wilmington.~~

~~B. 10 Ten in New Castle County outside of the City of Wilmington; Wilmington.~~

~~C. 5 Five in Kent County; County.~~

~~D. and 5 Five in Sussex County.~~

~~The provisions of this sub-subdivision shall supersede paragraph (3)d. of this section upon the reallocation of the census tracts.~~

~~3. Upon On request, the Director of the Division of Small Business, in conjunction with the Secretary of Finance, may consider extending the geographic boundary lines of the target area where the a targeted area if an adjacent community otherwise satisfies the above referenced criteria. criteria under paragraph (3)e.1. of this section.~~

Section 5. Amend § 2081, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2081. Definitions.

As used in this subchapter:

(7) "Corporate restructuring" ~~shall mean~~ means a transaction that meets both of the following:

a. qualifies pursuant to ~~Qualifies under~~ § 355 or § 368 of the Internal Revenue Code (26 U.S.C. § 355 or § 368).

b. Occurs on or before December 31, 2021.

Section 6. Amend § 4301, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4301. Definitions.

As used in this chapter:

(2) “Lessee” means any person to ~~whom~~ which a lease is ~~made~~; made and any assignee of the person to which a lease is made.

(3) “Lessor” means any person ~~who~~ that grants a ~~lease~~; lease and any assignee of the person that grants a lease other than an assignee for security or financing.

Section 7. Amend § 5401, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5401. Definitions [For application of this section, see 81 Del. c. 384, § 3].

As used in this subchapter, except where the context clearly indicates a different meaning:

(9) a. Notwithstanding paragraph (1) of this section, there shall be included in the definition of “document” for purposes of this chapter any contract or other agreement or undertaking for the construction of all or a part of any ~~building~~; building, except for one or more buildings of which 85% or more of the total square footage was constructed for the purpose of manufacturing, as defined in § 2701 of this title, all or a portion of which contract, ~~agreement~~ agreement, or undertaking (or any amendment to the foregoing) is entered into, or labor or materials are supplied, either prior to the date of the transfer of the land on which the building is to be constructed or within 1 year from the date of the transfer to the grantee.

b. ~~No~~ A jurisdiction in this State ~~shall~~ may not issue a building permit for ~~any such~~ a building unless ~~and~~ until the person or persons (including corporations or other associations) requesting ~~such~~ the permit ~~shall~~ demonstrate demonstrates in whatever form may be specified by the Director of Revenue, including at the Director’s discretion, a form of affidavit, ~~that~~; that 1 of the following applies:

1. ~~No~~ A transfer as described in this section has not occurred within the preceding ~~year~~; year.

2. ~~No~~ A portion of the contract for construction for which the permit is being requested was not entered-~~into~~ into, and ~~no~~ materials or labor with respect to the building have not been ~~provided~~ provided, within 1 year of the date on which the property was ~~transferred~~; or transferred.

3. There has been paid a realty transfer tax on the ~~document~~ document, as defined in this paragraph.

109 4. The grantee of the property, or an entity that is part of an enterprise with common ownership or
110 common direction and control with the grantee of the property, is or will be licensed as a manufacturer under
111 Chapter 27 of this title.

112 Section 8. If any provision of this Act or the application of this Act to any person or circumstance is held invalid,
113 the provisions of this Act are severable if the invalidity does not affect the other provisions of this Act that can be given
114 effect without the invalid provision or the application of this Act that can be given effect without the invalid application.

SYNOPSIS

This Act is the Department of Finance's Annual "housekeeping" legislation. Specifically:

(1) Section 1 of this Act removes an antiquated statewide refund cap from budgetary practice.

(2) Section 2 of this Act ensures the procedure for calculating County Seat payments for State-owned properties is consistent with the maximum amount appropriated for this purpose.

(3) Section 3 of this Act updates background check requirements for Division of Revenue staff and contractors to align with federal requirements.

(4) Section 4 of this Act ensures regular updates are made to census tract definitions used as part of the Creation of Employment and Qualified Investment tax credit.

(5) Section 5 of this Act limits eligibility for New Economy retained jobs credits, as intended by the Commitment to Innovation Act.

(6) Section 6 of this Act clarifies the definitions of “lessor” and “lessee” for Occupational and Business License Taxes to reflect modern leasing transactions.

(7) Section 7 of this Act excludes manufacturing companies from a 2% State Realty Transfer Tax on construction contracts made within the first year of a realty transfer.

(8) Section 8 of this Act provides for severability.

This Act also makes technical correction to conform existing law to the standards of the Delaware Legislative Drafting Manual.