



SPONSOR: Rep. K. Johnson & Sen. Gay

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 412

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO PROPERTY TAX EXEMPTIONS IN NEW CASTLE COUNTY.

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

Section 1. Amend § 8106A, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8106A. ~~Application for exemption.~~ New Castle County property tax exemptions; applications; refunds.

(a)(1) This section applies to property in New Castle County that is entitled to an exemption as any of the following:

a. Owned by a religious, educational, or charitable agency, under § 8105 of this title or under New Castle County Code § 14.06.101.

b. Owned by a specific organization or for a specific purpose, under § 8106(a) of this title.

c. Parkland owned by a civic association, under § 8110 of this title.

d. Recreational properties, under New Castle County Code § 14.06.601.

e. Cemetery properties, under New Castle County Code § 14.06.701.

(2) ~~In New Castle County, no~~ No exemption from taxation for ~~property owned by a religious, educational, or charitable agency or for a specific organization listed in this subchapter shall be~~ any property under paragraph (a)(1) of this section is allowed except on after written application ~~therefor, on a form prescribed and provided by the New Castle County Land Use Department; and the approval of New Castle County.~~

(b) ~~The owner shall file an~~ An application for exemption ~~under this subchapter must be filed~~ with the Assessment Division of New Castle County by March 1 of the fiscal year immediately preceding the fiscal year for which the exemption is sought. of the New Castle County Office of Finance (Assessment Division), using the form provided by the Assessment Division. The date of the application is the date the application is received by the Assessment Division.

(c) ~~If an owner acquires property after March 1, the owner shall apply for exemption within 30 days of its acquisition of the property.~~ (1) An exemption under this section is effective the later of the following:

a. The date the property owner met the criteria for the exemption.

23 b. Three years before the date of the application.

24 (2) If reviewing an application for exemption under this section that was decided on or after January 1, 2017,

25 New Castle County shall determine and process any refund of New Castle County taxes to the property owner,
26 regardless of who paid the property taxes, based on all of the following:

27 a. The effective date of the exemption under paragraph (c)(1) of this section.

28 b. Proration calculated under § 8111A of this title.

29 (3) If property is transferred from an owner eligible for an exemption under this section while that owner's
30 exemption application is pending, New Castle County shall refund county taxes paid for the period of the exempt
31 transferor's ownership, as prorated using the calculations under § 8111A(b) of this title.

32 (4) Interest does not accrue and is not owed on any credit or refund issued under this section.

33 (5) Paragraphs (c)(2) and (c)(3) of this section do not apply to school taxes levied under Title 14, and New
34 Castle County may not refund school taxes under this section.

35 (d) No application shall be required of governmental Governmental entities entitled to exemption under this
36 subchapter. subchapter are not required to submit an application under this section.

37 Section 2. Amend Chapter 81, Title 9 of the Delaware Code by making deletions as shown by strike through and
38 insertions as shown by underline as follows:

39 § 8111A. Proration of yearly taxes when property in New Castle County is transferred to an exempt entity.

40 (a) When real property in New Castle County that is not exempt from taxation is transferred to an entity that is
41 approved for a tax exemption under § 8106A of this title, tax is due and owing for the property for the tax year in which the
42 transfer occurs, but only for the portion of the year when the property was owned by the nonexempt transferor.

43 (b) Proration under subsection (a) of this section is determined by dividing the total amount of property tax, for the
44 tax year when the ownership of the property was transferred, by 365 and multiplying that total by the number of days in the
45 tax year that the nonexempt transferor owned the property.

46 Section 3. This Act applies retroactively to all applications for exemption from taxation based on the categories
47 identified under § 8106A of Title 9 that New Castle County decided on or after January 1, 2017. Within 18 months from
48 [the effective date of this Act], New Castle County shall do all of the following:

49 (1) Review the decisions made on or after January 1, 2017, under §§ 8106A and 8111A of Title 9.

50 (2) If required under §§ 8106A and 8111A of Title 9, revise the effective date of exemptions and process any
51 refunds.

SYNOPSIS

This Act revises the property tax exemption process for New Castle County by updating the application process to reflect the current organization of New Castle County government and by doing all of the following:

1. Repealing the existing deadline to file an application for an exemption.
2. Establishing an effective date for approved exemptions that is the later of the date the property owner met the criteria for the exemption or 3 years before the date of the application.
3. Establishing how New Castle County determines and processes property tax refunds, including proration for situations when the property was owned by a nonexempt transferor for part of a tax year and clarifying that school taxes cannot be refunded through this process.
4. Requires New Castle County to review all applications for exemption from taxation that were decided on or after January 1, 2017, under the law as revised by this Act, and process any refunds.

Owners of real property that are entitled to exemptions include religious, educational, or charitable entities often have limited resources and limited knowledge of the laws regarding exemption from property taxation. Missing the deadline to submit an application for exemption from property taxes causes serious economic harm to these entities. Repealing the application deadline has minimal impact on certainty for New Castle County's budget, particularly in contrast to the heavy strain that an unanticipated tax bill places on these entities whose services are beneficial to the residents in New Castle County. In addition, limiting the effective date for exemptions to 3 years before the date an application was submitted further minimizes the potential impact on certainty for New Castle County's budget.