SPONSOR: Rep. Bush & Rep. Hensley & Sen. Hoffner
Reps. Collins, Cooke, Gray, Michael Smith, Yearick;
Sens. Pettyjohn, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 31

AN ACT TO AMEND TITLE 14 AND TITLE 29 OF THE DELAWARE CODE RELATING TO THE SENIOR PROPERTY TAX CREDIT.

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

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

§ 1917. Collection and deposit of school taxes.

(c) (1) a. 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 county fiscal year, is of the age of 65 or more and ~~meets the following requirement:~~

~~1. For claimants establishing legal domicile in this State after December 31, 2012, but on or before December 31, 2017, 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.~~

~~2. For claimants establishing legal domicile in this State after December 31, 2017, 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 10 consecutive years are eligible to receive a credit.~~

has been legally domiciled with the State for a period of at least 3 consecutive years.

b. 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.

c. For claimants who have been legally domiciled in the State for more than 3 but less than 10 years, the maximum credit authorized by vote of local school boards shall be the lesser of the following:

1. Fifty percent 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.

2. Four hundred dollars.

d. For claimants who have been legally domiciled in the State for 10 years or more, the ~~The~~ maximum ~~such~~ credit authorized by vote of local school boards shall be the lesser ~~of:~~ of the following:

1. Fifty percent 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~~ 29.

2. Five hundred dollars.

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

Section 2. Amend § 6102, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6102. Composition of General Fund; Delaware Higher Education Loan Program Fund.

(q) (1) A special fund of the State is created in the Department of Finance to be known as the "Elderly Property Tax Relief and Education Expense Fund," to which shall be deposited $13,000,000 received in any revenue source not otherwise committed to a special fund and from which shall be paid claims made under this subsection and § 1919(d) of Title 14. Should such claims exceed $13,000,000 during any fiscal year, the Secretary of Finance, with the approval of the Director of the Office of Management and Budget and Controller General, may transfer from the general contingency line in the Department of Education to the Elderly Property Tax Relief and Education Expense Fund the amount of such reasonably foreseen additional claims. Any balance remaining in the Elderly Property Tax Relief and Education Expense Fund at the conclusion of any fiscal year shall revert to the General Fund.

(2) Sums appropriated pursuant to this subsection shall be allocated to school districts using a method that recognizes factors including, but not limited to, the number of primary residential households owned by persons 65 or over who meet the durational residency requirement of § 1917(c) of Title 14 in each school district, the relative value of residential property owned by persons 65 and over, the relative property values of each school district, the school tax rates of each school district, and the average rate of application for tax relief pursuant to this subsection. The final method and allocation of these moneys shall be approved by the Secretary of Finance in consultation with the Controller General.

(3) Local school boards shall decide through majority vote of the whole school board whether to authorize a credit against taxation imposed pursuant to Chapter 19 of Title 14 on the valuation of any qualified property, as defined in § 1917(c) of Title 14. The maximum such credit ~~shall be the lesser of 50% of such tax remaining after taking into account any exemption pursuant to Title 9 and Title 22, or $500.~~ is that set forth under § 1917(c)(1) of Title 14. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to this section. Should the local school board decide to authorize less than the maximum amount of credit against taxation, the local school board shall develop a plan for using moneys received pursuant to this subsection, provide appropriate and reasonable public notice and comment on the proposed plan, and approve the plan through majority vote of the local school board. Local school boards shall submit the approved plan to the Secretary of Finance, the Secretary of Education, the Director of the Office of Management and Budget and the Controller General. In the event that local school boards choose not to authorize the aforementioned credit against taxation, the sums appropriated herein will result in increased state funding for education-related expenses of the school districts. Education-related expenses for the purposes of this subsection shall be defined as including, but not being limited to, computer hardware and software, library resources and other instructional materials, and minor capital improvements to school facilities. Local school boards and all other responsible parties under this paragraph are hereby directed to cause such conditions to be met as soon as practicable after the enactment of this section, but in no event later than October 30, 1999, and shall notify the Secretary of Finance and the Controller General as soon as such conditions are met. Notwithstanding any of the foregoing to the contrary, funds received pursuant to this section shall not be used for major capital improvements or debt service.

SYNOPSIS

This Act reinstates a credit against school taxes of up to $400 for seniors who have been domiciled in Delaware for 3 years or more. After 10 years domiciled in Delaware the credit would increase to $500. Under current law the credit is $500 after 10 years.