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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 127

AN ACT TO AMEND TITLE 9 AND TITLE 25 OF THE DELAWARE CODE RELATING TO COUNTY FIRE PROTECTION FEES.

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

1 Section 1. Amend Subchapter I, Chapter 81, Title 9 of the Delaware Code by making deletions as shown by strike
2 through and insertions as shown by underline as follows:

3 § 8113. Fire protection fee.

4 (a) For purposes of this section:

5 (1) "Fire protection" means the prevention and extinguishment of fires; maintenance of apparatus and
6 equipment, including ambulances, rescue trucks, aerial, or platform trucks and rescue boats; provision of basic life
7 support; and operation of stations.

8 (2) "Fire company" means a nonprofit fire company that is a recipient of a Grant-in-Aid for the current fiscal
9 year and provides fire protection outside the limits of the City of Wilmington.

10 (b)(1) A county may impose, by ordinance, a fire protection fee.

11 (2) A fire protection fee may be collected from property that is otherwise exempt from taxation and
12 assessment unless an exemption from the collection of the fire protection fee is provided by the county.

13 (c)(1) A county must do all of the following with any money collected under this section:

14 a. Deposit and hold all of the money in an account that is segregated from the county's general funds.

15 b. Except as provided under paragraph (c)(3) of this section, distribute all of the money, including any
16 accrued interest, in the manner required under paragraph (c)(2) of this section, within 18 months of receipt.

17 (2)a. The money collected under this section may only be distributed to fire companies providing fire
18 protection in the county.

19 b. A county shall establish criteria for how the money is distributed under paragraph (c)(2)a. of this
20 section.

(3) A county may use no more than 5% of the money annually deposited under paragraph (c)(1)a. of this section for administering this section.

(d) If a fire protection fee is not paid as and when due, all of the following apply:

(1) A penalty on the unpaid balance may accrue and be due to the county at a rate and in a manner set by ordinance. The county may establish procedures for the abatement of this penalty.

(2) The unpaid balance and any penalties accrued thereon shall be a lien on the property upon which the fire protection fee was incurred. This lien shall be superior and paramount to the interests in such property of any owner, lessee, tenant, mortgagee, or other person, except the lien of taxes.

(3) The county may institute a proceeding for the enforcement of a lien under paragraph (d)(2) of this section with accrued penalties, and all costs thereon, under the method for collecting delinquent taxes established under Chapter 87 of this title. Grounds and buildings, or any part thereof, may be sold by the Sheriff of the county as is provided by law.

(e) A fire company must include the money received under this section in the annual audit required under § 6608 of Title 16.

Section 2. Amend § 2901, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2901. Lien of taxes and other charges; Notice of Lien.

(a)(1) Except as otherwise provided, "lien" or "liens" as used in this section shall arise whenever the following charges, as defined in this section, are levied or imposed by the State or any political subdivision thereof (including the Levy Court or county council of any county, any united, consolidated or incorporated school district, or any incorporated town or city in this State) and such charges become due:

(l) Fire protection fees under § 8113 of Title 9.

(3) Except as provided in paragraph (b)(1) of this section, the liens created by this subsection are levied or imposed only upon that parcel of real property against or upon which such charges have been levied or imposed. Except as provided in paragraph (b)(1) of this section, the liens created by paragraphs (a)(1)a. through (a)(1)i. and (a)(1)k. through (a)(1)l. of this section shall have preference to and priority over all other liens on such real property, including liens of a date prior in time to the attaching of the liens created by this section. The liens created by paragraph (a)(1)j. of this section shall have preference and priority with respect to all other liens on such real property as of the time such fees become final and non-appealable.

SYNOPSIS

This Act provides each county with the ability to impose, by duly enacted ordinance, a fire protection fee (fee). A county that enacts this fee must do all of the following:

1. Deposit all money collected from this fee in an account that is segregated from the county's general funds.
2. Establish criteria under which this money is distributed to fire companies providing fire protection in the county.
3. After using no more than 5% of the money annually deposited from this fee for administration of this fee, distribute all of the money collected, including accrued interest, within 18 months of receipt.

In addition, under this Act:

1. A fire protection fee may be collected from property that is otherwise exempt from taxation unless an exemption from this fee is provided by the county.
2. A county may, by ordinance, establish penalties for the failure to pay a fire protection fee and establish procedures to abate the penalty.
3. The unpaid balance and any penalties become a lien on the property upon which the fire protection fee was incurred and the county may institute a proceeding to enforce this lien.
4. A fire company must include the money received from a fire protection fee in the annual audit required under § 6608 of Title 16.

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