



SPONSOR: Rep. Wilson-Anton & Sen. S. McBride & Sen. Lockman
Reps. Baumbach, Morrison, Osienski, K. Williams

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 252

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE ASSESSMENT OF REAL PROPERTY.

1 WHEREAS, it has been decades since any of Delaware's counties have conducted real property tax reassessment;

2 and

3 WHEREAS, each county is under a Court of Chancery order approving a settlement that requires the county to
4 conduct a real property tax reassessment; and

5 WHEREAS, a standard, periodic reassessment of real property creates predictability, keeps assessed values
6 reasonably accurate, and will be cost effective because it enables the use of advanced mass appraisal technologies; and

7 WHEREAS, it may be less expensive for a county to reassess real property on a cycle that reassesses a portion of
8 the parcels in the county each year; and

9 WHEREAS, the term "true value in money" is archaic and the Delaware Supreme Court has consistently held that
10 the term true value in money "is the same as its fair market value", *New Castle Cty. Dep't of Fin. v. Teachers Ins. &*
11 *Annuity Ass'n*, 669 A.2d 100, 102 (Del. 1995); and

12 WHEREAS, the Delaware Supreme Court has defined "fair market value", *Seaford Assocs., L.P. v. Bd. of*
13 *Assessment Review*, 539 A.2d 1045, 1048 (Del. 1988), and more specifically, have established that under Delaware law, the
14 fair market value of taxable property means its present market value, *Board of Assessment Review v. Stewart*, 378 A.2d
15 113, 115 (Del. 1977); and

16 WHEREAS, the requirement to assess taxable property at its present fair market value does not require that a
17 property's assessed value always perfectly match up with present fair market value, because valuing property requires time
18 and costs money and property values fluctuate, therefore assessed values meet the present fair market value requirement
19 when they fall within a reasonable range of present fair market value, *In re Del. Pub. Sch. Litig.*, 239 A.3d 451, 477-78
20 (Del. Ch. 2020); and

21 WHEREAS, under current law, each county's Department of Finance is responsible for property assessment, not
22 the board of assessment for the county, under §§ 1321, 4124(b), and 7004(c)(1) of Title 9.

23 NOW, THEREFORE:

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

25 Section 1. Amend § 8306, Title 9 of the Delaware Code by making deletions as shown by strike through and
26 insertions as shown by underline as follows:

27 § 8306. Standard of assessment; ~~penalty~~; frequency of reassessment.

28 (a) All property subject to assessment shall be assessed at its ~~true value in money~~; present fair market value.

29 (b) ~~If any board of assessment, or any member thereof, knowingly and wilfully values or assesses any property~~
30 ~~upon any other standard than its true value in money, each of the members of the board participating therein shall be fined~~
31 ~~not more than \$100.~~ (1) All taxable real property must be reassessed by the county in which the real property is located at
32 least once every 5 years.

33 (2) The initial 5-year period under paragraph (b)(1) of this section starts when each parcel is reassessed after
34 July 1, 2021.

35 Section 2. Amend § 8307, Title 9 of the Delaware Code by making deletions as shown by strike through and
36 insertions as shown by underline as follows:

37 § 8307. Use of local assessment lists.

38 (a) It shall be lawful for the board of assessment to enter into an agreement with the proper authorities of any city,
39 ~~town~~-town, or municipality to inspect and copy any assessment made for local purposes. If in the opinion of a majority of
40 the Board such local assessment assesses all property at its ~~true value in money~~; present fair market value, then the board
41 may adopt such local assessment as the assessment for county purposes.

SYNOPSIS

This Act requires each county to reassess the value of real property in the county on a regular basis that occurs at least once every 5 years. The first 5-year period starts when the reassessments being conducted under the settlement agreements in the case *In re Delaware Public Schools Litigation*, C.A. No. 2018-0029-VCL (County Track) (Del. Ch.) are completed.

This Act also makes revisions for consistency with current law and terminology as follows:

1. Because boards of assessment are not responsible for assessing property in any of the counties under current law, this Act also repeals the penalty for a board of assessment that knowingly and wilfully assesses property at an incorrect value.

2. Requires that real property be assessed at its “present fair market value” instead of at its “true value in money.” Delaware courts have established that the “true value in money” for real property means its “present fair market value”, which is the terminology that is currently used.