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& Sen. Huxtable & Sen. Townsend & Sen. Wilson  
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K. Johnson, Lambert, Morrison, Osienski, Ramone,  
Romer, D. Short; Sens. Hansen, Sokola, Walsh

HOUSE OF REPRESENTATIVES  
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 127  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1  
AND  
HOUSE AMENDMENT NO. 2

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:

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

§ 8113. Fire protection fee.

(a) For purposes of this section:

(1) "Ambulance service provider" means an organization that is a recipient of a Grant-in-Aid for the current fiscal year for the operation and maintenance of ambulances in the public service.

(2) "Fire company" means a nonprofit fire company that is a recipient of a Grant-in-Aid for the current fiscal year.

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

(4) "Fire protection provider" means a fire company or an ambulance service provider that provides fire protection outside City of Wilmington.

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

(2) A fire protection fee may be collected from property that is otherwise exempt from taxation and assessment unless any of the following apply:

a. The property is owned by this State.

b. An exemption from the collection of the fire protection fee is provided by the county.

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

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

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

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

b. A county shall establish criteria for how the money is distributed under paragraph (c)(2)a. of this 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 protection provider 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:

(i) 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.