



SPONSOR: Rep. Schwartzkopf & Rep. Lambert & Sen. Huxtable
Reps. Collins, Gray, Jones Giltner, D. Short, Hilovsky,
Phillips; Sens. Hocker, Pettyjohn, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 403
AS AMENDED BY
HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO ASSESSMENT FUNCTIONS IN ALL COUNTY GOVERNMENTS.

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

Section 1. Amend § 1301, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1301. Functions.

The Department of Land Use, managed by the general manager of the department, who shall be qualified by education, experience and training, shall perform the following functions unless otherwise provided:

~~(15) The Department shall assess all property subject to taxation by the County and maintain appropriate records.~~

~~(16) The Department shall prepare tax rolls, including those required by any municipality, school district or special district lying within or partially within the County if authorized by law or such districts.~~

~~(17) The Department shall prepare the necessary assessment rolls of assessable public improvements.~~

Section 2. Amend § 1323, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1323. Obligations and rights of property owners.

The adoption of this subchapter shall in no manner ~~relieve any property owner of any obligation imposed upon him or her prior to May 26, 1965, with respect to the rendition or assessment of any property, nor shall it in any manner increase the responsibility of such property owner nor deny the property owner of any right possessed prior to May 26, 1965, except to the extent specifically provided in this subchapter.~~

Section 3. Amend § 1371, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1371. Office of Finance; functions.

The Office of Finance, managed by the Chief Financial Officer, who shall be qualified for the position by education, training and experience, may perform the following functions:

(16) Assess all property subject to taxation by the County and maintain appropriate records;

(17) Prepare tax rolls, including those required by any municipality, school district, or special district lying within or partially with the County if authorized by law or such districts;

(18) Prepare the necessary assessment rolls of assessable public improvements;

~~(16)~~(19) Perform such other functions as may be required of the Chief Financial Officer by this title, or other state law, or which may be assigned in writing by the County Executive.

Section 4. Amend Title 9 of the Delaware Code by transferring §§ 1317 through 1322 of Title 9 to §§ 1371A to 1371F of Title 9 and then by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 1317-1371A.~~ Board of Assessment Review.

The New Castle County Council, by ordinance, shall establish the Board of Assessment Review.

(1) The Board of Assessment Review consists of 9 regular members, members and 3 alternate members, as follows:

a. Eight ~~individuals~~regular members and 3 alternate members appointed by the County Council, subject to the following:

1. Each individual must be a resident and freeholder of the County.

2. Each individual appointed or reappointed after May 24, 2018, is appointed for a term of 4 years.

b. One ~~individual~~regular member appointed by the County Executive with the advice and consent of the County Council, who serves at the pleasure of the County Executive.

c. The member appointed under paragraph (1)b. of this section shall be the Chair.

(2) Each member is entitled to remuneration as determined by the County Council.

~~§ 1318-1371B.~~ Functions of Board of Assessment Review.

The Board shall perform all of the following functions:

(3) Review the methods by which the ~~general manager of the Department of Finance~~Chief Financial Officer has established the assessments and the results thereof as reflected by the assessment roll. If the Board should find that the procedures used by the ~~general manager of the Department of Finance~~Chief Financial Officer require improvement in order to make more equitable and effective the assessment procedure, the Board shall make such recommendations as it deems proper to the ~~general manager of the Department of Finance~~Chief Financial Officer and file a copy thereof with the Clerk of the County Council.

§ ~~1319-1371C~~. Appointment and duties of additional Board members and referees.

(b) The County Council may, by ordinance, authorize appointment of referees to hear appeals of property assessments. The ~~general manager of the Department of Finance~~ Chief Financial Officer shall appoint, with the advice and consent of the County Council, such referees as are authorized by ordinance. Referees appointed under this section must possess sufficient qualifications concerning the valuation of real property as determined by County Council.

§ ~~1320-1371D~~. Judicial review.

Nothing in this chapter shall be construed as limiting the right of a property owner or County to appeal to the courts in connection with the assessment of property for taxation as provided by law.

§ ~~1321-1371E~~. General provisions relating to assessment.

It is the intent of this subchapter that in New Castle County, the ~~Department~~ Office of Finance shall perform all of the functions assigned to the Board of ~~Assessment~~ Assessment Review, except for the functions specifically assigned to the Board of Assessment Review by § ~~1320~~ 1371B of this title.

§ ~~1322-1371F~~. Assessment of property.

(a) In the performance of the functions relating to the assessment of property, the ~~Department~~ Office of Finance shall exercise the assessment functions assigned to the Board of Assessment Review prior to May 26, 1965. To this end, not later than February 15 of each year, the ~~Department~~ Office of Finance shall prepare and present to the Board of Assessment Review a copy of the assessment roll for the year. The ~~Department~~ Office of Finance shall determine the form of the assessment roll and shall not be bound by provisions of law in effect prior to May 26, 1965, as to form. roll. The County Council of New Castle County shall by ordinance establish the dates during which appeals from assessments of the ~~Department~~ Office of Finance to the Board of Assessment Review may be heard.

(b) Not later than April 30 of each year, the ~~Department~~ Office of Finance shall certify to the Chief Financial Officer a true and correct assessment roll for the year. Not later than May 31 of each year, the ~~general manager of the Department of Finance~~ Chief Financial Officer shall certify to the County Council the total value of all property in the County and the total value of all property which has been assessed and is subject to taxation.

(c) The ~~Department~~ Office of Finance shall determine by rule, the form, number of copies, and other details concerning the keeping of records relating to assessment of real property and improvements thereupon. The ~~Department~~ Office of Finance shall develop a suitable system for the identification of all real property within the County, both that which is subject to taxation and that which is exempt from taxation. Such system must be in a form that readily permits the subdivision of property, or the reassembly of property, without loss of control thereof for purposes of assessment.

Section 5. Amend § 1374, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1374. Obligations and rights of property owners.

The adoption of this subchapter shall in no manner relieve any property owner of any obligation imposed upon him or her prior to May 26, 1965, with respect to the assessment of any property or the payment of any tax nor shall it in any manner increase the responsibility of such property owner nor deny him or her any right possessed prior to May 26, 1965, except to the extent specifically provided in this subchapter.

Section 6. Amend § 7004, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7004. Department of Finance.

(e) *Board of Assessment Review.* — ~~The Board of Assessment Review shall consist of 5 freeholders of the County, not more than 3 of whom shall be from the same political party, who shall be appointed by the county government for 5 year terms, provided that the terms of the original members shall be established in a manner that 1 shall expire each year. One member of the Board shall be appointed from each councilmanic district; however, the member shall not forfeit that member's own office by virtue of lack of continued residence in the district from which appointed if this potential disqualification shall arise solely from a change in the boundaries of a councilmanic district as a result of redistricting required by this title.~~ The Sussex County Council shall:

(1) Establish a Board of Assessment Review that consists of 5 regular members and 3 alternate members. The term and residency requirement of each member shall be determined by Sussex County Council. Sussex County Council shall provide compensation for members in amounts established by County Council in the county annual operating budget ordinance. Sussex County Council shall provide for the filling of vacancies on the Board of Assessment Review.

(2) Authorize the appointment of referees to hear appeals of property assessments. The Director of Finance shall appoint, with the advice and consent of the County Council, such referees as are authorized. Referees appointed under this section must possess sufficient qualifications concerning the valuation of real property as determined by County Council.

(3) Appeals may be heard by panels of 3 or more members of the Board or by the referees individually when the referees are so authorized pursuant to paragraph (e)(1) of this section. The panel or the referee shall submit a recommendation to the Board which shall determine whether the assessment is correct based upon the record of the appeal hearing and the recommendation of the panel or the referee.

(f) *Duties of Board of Assessment Review.* — The Board shall:

(4) Perform all functions as established by Sussex County Council through ordinance and as otherwise provided in this title.

(j) *Assessment of property.* — In the performance of the functions relating to the assessment of property, the Department of Finance shall exercise the assessment functions heretofore assigned to the Board of Assessment. To this end, not later than February 15 of each year, the Department of Finance shall prepare and present to the Board of Assessment Review a copy of the assessment roll for the year. The Department shall determine the form of the assessment roll and shall not be bound by provisions of law heretofore in effect as to form. ~~During the month of March, the~~ From March 1 through May 31 or until all appeals have been heard and acted upon during a year of reassessment, the Board of Assessment Review or its representatives shall hear appeals from property owners who believe that their property is improperly assessed, and make determinations of corrections or additions to the assessment roll that may be necessary. Assessment appeals shall be scheduled by contacting the Sussex County Assessment Division for an appointment ~~in beginning on~~ March 1 of each year.

Section 7. Amend § 8302, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8302. Revision and correction of assessments and valuations.

(a) Each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ shall revise all valuations and assessments of assessable property in their counties, and lower or increase the assessments and valuations.

(b) Each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ may correct errors in assessment lists at any time.

Section 8. Amend § 8303, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8303. Written statement listing property owners, value, type, etc.

(a) Each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ shall make a written statement of their assessments, ~~showing the names of the owners or last owners or reputed owners, if known, arranged alphabetically, and at least 3 consecutive letters of the last names thereof, the value of the property and the amount of each owner's assessment.~~ assessments. Each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ shall distinguish between improved land and unimproved land, ~~and in Sussex County shall state whether such unimproved land is timberland, swamp or marsh, and the number of acres of each land.~~ The Any name included on such statement will be regarded as an aid to identify such property, ~~but~~ and a mistake in the name of the owner, last known

owner or reputed owner, or the absence of name, shall not affect the validity of the ~~assessment of any tax based thereon.~~
assessment.

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

§ 8306. Standard of assessment; frequency of reassessment.

(a) All property subject to assessment shall be assessed at its ~~present~~ fair market value as of the date of the most recent reassessment base year in the county.

Section 10. Amend § 8309, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8309. Assessment where owner unknown.

If the board of assessment or Department or Office of Finance ~~or Department of Land Use~~ cannot discover the owner of any property, it shall nevertheless value the same, and state that the owner is unknown.

Section 11. Amend § 8310, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8310. Public inspection of completed assessment.

(a) Each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ shall complete the assessment each year by the date herein specified and, except as provided otherwise in this section, shall make such assessment public in the manner specified below:

(1) New Castle County, by March 1; assessments open for inspection in the office of the Board and available on a website designated by the Office of Finance;

Section 12. Amend § 8311, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8311. Appeals and corrections upon completion of annual assessment.

(a) The Board of Assessment Review for New Castle County or its representatives shall ~~sit in its office, or some other public and convenient place in New Castle County, during each secular day from March 15 to April 30 of each year,~~ to hear appeals and make additions, alterations or corrections to the assessment. Any person desiring to take an appeal shall prior to March 15 file written notice thereof with the Board on such forms as the Board may prescribe and make available upon request, setting forth the assessment or assessments appealed from, the name and address to which the Board shall mail notice of the time and place of hearing, and such other information as the Board may require. The Board or its representatives shall hold hearings on a schedule and in the manner determined by it to be the most appropriate and

efficient to handle all appeals in a timely manner. The Board shall notify each person who has filed an appeal of the time and place of hearing of said appeal by depositing such notice in the mail addressed to the person and address designated in the notice of appeal not later than the 5th day preceding the day designated in the notice of such hearing. The Board shall provide at least 10 days' notice of the time, place and manner of the hearing by sending notice to the appealing party pursuant to section 8324 of this title. Failure of the appealing party to appear at the time and place fixed by the Board shall constitute the constitutes abandonment of the appeal.

(b) The Board of Assessment Review for Kent County or its representatives shall ~~sit in its offices during each secular day from April 1 through April 15, of each year to hear appeals and make additions, alterations or corrections to the assessment.~~ assessment from March 1 to May 31 of each year or until all appeals have been heard and acted upon during a year of reassessment.

(c) The Board of Assessment for Sussex County or its representatives shall ~~sit in its offices during each secular day from February 15 through March 1 of each year to hear appeals and make additions, alterations or corrections to the assessment.~~ assessment from March 1 to May 31 of each year or until all appeals have been heard and acted upon during a year of reassessment.

Section 13. Amend § 8312, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8312. Notice that assessment may be inspected; appeals; notice of decision; appeals to Superior Court.

(a) Each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ shall publish notices of the places and website if made available electronically, where the assessments may be inspected together with a notice of the time and place of the sittings to hear appeals and make additions or corrections ~~in regard~~ to the assessments. The notices published by each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ shall also state the time and place for filing written notices of appeal with each board of assessment or Department or Office of Finance ~~or Department of Land Use~~, as provided in § ~~8311(a)-8311~~ of this title. Such notice shall appear ~~at least once a week for 2 weeks~~ in at least 2 newspapers in the case of Kent and Sussex Counties and, in the case of New Castle County, in ~~at least 2 newspapers, 1 of which is the newspaper with the highest general circulation published in New Castle County.~~ Each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ may use such other means as will best bring such notice to the attention of the parties or taxables interested.

(b) Each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ shall sit and hear all appeals properly filed and shall permit the introduction of all relevant evidence, including the testimony of witnesses, presented by the appellant. Each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ shall

make and keep a record of all evidence presented at such appeal proceedings. Each board of assessment or Department or Office of Finance or Department of Land Use shall notify the appellant in writing, by registered mail, of its decision within 5 30 days of the date of its decision.

(c) Any person who, after properly filing an appeal before any board of assessment or Department or Office of Finance or Department of Land Use, Finance feels aggrieved by the decision of such body may, within 30 days by postmark date after receiving notice of its decision, appeal therefrom to the Superior Court of the county in which such person resides. The decision of each board of assessment or Department or Office of Finance or Department of Land Use shall be prima facie correct and the burden of proof shall be on the appellant to show that such body acted contrary to law, fraudulently, arbitrarily or capriciously. The appellant shall be heard on the record and proceedings of each board of assessment or Department or Office of Finance or Department of Land Use which shall be certified to the Court by such body within 1520 days after service on such body of a notice of appeal. The Court may permit the appellant or each board of assessment or Department or Office of Finance or Department of Land Use to present any new or different evidence pertinent to the matter. The Court may affirm, reverse or modify the decision of such body and the decision of the Court shall be final. The Court at its discretion may also remand the matter to the board to clarify issues of fact or to make findings consistent with the Court's decision.

Section 14. Amend § 8314, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8314. Report of total assessed valuation.

(a) After the closing of the hearings, the settlement of all appeals, and the adjustment of the assessment lists, each board of assessment shall ascertain the total of the assessed valuation of its county and certify the same to the county governing body as a basis on which the governing body may estimate and fix the tax rate. ~~In New Castle County, Kent County or Sussex County the~~ Each Board of Assessment Review shall certify the total of the assessed valuation to the county government through the Department or Office of Finance.

Section 15. Amend § 8315, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8315. Duplicate assessments.

(a) Each board of assessment or Department or Office of Finance or Department of Land Use shall, in each year, prepare and furnish duplicates of all assessments and alterations and corrections thereof by it in its books. Duplicate assessments may be in the form of a widely accepted electronic file format.

Section 16. Amend § 8317, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8317. Personal inspection of property to adjust valuation; notice of change.

The board of assessment, or any member thereof, may personally inspect each tract, or parcel of real estate, and shall report in writing to the board its or that board member's opinion as to its value. If it shall appear that any property as returned by the owner or as listed on the books is not sufficiently valued, the board of assessment shall give notice thereof to the owner or person making such return and valuation, and shall fix a day, not less than 10 days after the date of the notice, for a hearing and determination. The powers granted in this section may be exercised by the Department of Finance in Sussex County, the Department of Finance in Kent County and the ~~Department of Land Use~~ Office of Finance in New Castle County.

Section 17. Amend § 8320, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8320. Information to be supplied by building inspectors in New Castle County.

The Building Inspector of the City of Wilmington and the building inspector or other officer authorized by law to issue permits for new buildings or for repairs or additions to old buildings, in any other city or town of New Castle County, shall report to the ~~Department of Land Use~~ on blanks to be furnished by the Department, Office of Finance every permit issued by the inspector respectively, for the erection of a new building or buildings, or the repair, alteration or improvement of old buildings, specifying the estimated cost of the proposed new building, or the repair, alteration or improvement of the old building.

Section 18. Amend § 8321, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8321. Notice of increase in assessment or new assessment.

Whenever a board of assessment or ~~Department or Office of Finance or Department of Land Use~~ shall propose to alter or change any assessment by increasing the same, or make a new assessment other than a ~~general~~ general, supplemental, or annual assessment, it shall, before such alteration, change or new assessment is made, give 10 days' notice in writing to the owner of the property affected thereby, and if such owner cannot be found within the county by reasonable inquiry, then to the person in possession of the property, or to the person in whose custody the same may be, ~~or if it be land, and no one shall be in the apparent occupancy thereof, then such notice shall be posted on the land.~~ be.

Section 19. Amend § 8322, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8322. Discovery of unassessed property.

Each board of assessment or Department or Office of Finance of ~~Sussex County or Kent County or Department of Land Use of New Castle County~~ shall take proceedings for the discovery of all unassessed real estate.

Section 20. Amend § 8324, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8324. Notices to be by ~~mail~~; mail or by email.

Any notice required to be given under the provisions of this chapter may be sent by mail or by email when the property owner has provided an e-mail address for notice purposes, ~~and when any such notice is sent, the~~ The day of the mailing or the e-mailing thereof shall be deemed ~~and taken to be~~ the day of the giving of such notice.

Section 21. Amend § 8325, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8325. Report of those liable for capitation tax.

~~Each board of assessment shall ascertain and report to the county government the names of all persons liable to capitation tax, the report to the county government being made at the same time that the report of the total valuation and assessment is made. In New Castle County, the Department of Land Use shall ascertain and report to County Council the number of persons liable to capitation tax. In Sussex County and Kent County, the~~ Each Department or Office of Finance shall ascertain and report to the county government the number of persons liable to capitation ~~tax~~; tax when the report of the total valuation and assessment is made.

Section 22. Amend § 8338, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8338. Supplemental assessments permitted quarterly.

In addition to the annual assessment provided for in §§ ~~1308 and~~ 8301 of this title, each Board of Assessment of Kent and Sussex Counties and the ~~Department of Land Use~~ Office of Finance of New Castle County may, at its option, prepare quarterly supplemental assessment rolls for the purpose of:

Section 23. Amend § 8342, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8342. Notice required under supplemental assessment procedure.

(a) Whenever the board of assessment or ~~department of finance~~ Department or Office of Finance places a property on a supplemental assessment roll, it shall deposit notice ~~thereof~~ in the regular mail addressed to the owner of the property affected ~~thereby~~ at the address shown on the assessment rolls, or if the address of such owner does not appear on the

assessment roll, then to the person occupying the property, or if there is no apparent occupant such notice shall be posted on the land. Such notice shall be given no later than the date on which the supplemental assessment roll on which the property appears is certified to the respective county government. property.

(b) Each board of assessment or Department or Office of Finance ~~or Department of Land Use~~ shall publish notices of the places and website if made available electronically where the supplemental assessment roll may be inspected together with a notice of the time and place of the sittings to hear appeals. The notices published by the ~~Department of Land Use~~ Office of Finance of New Castle County shall also state the time and place for filing written notices of appeal with the ~~Board or Department.~~ Board. Such notice shall appear ~~at least once a week for 2 weeks~~ in at least 2 newspapers in the case of Kent and Sussex Counties and, in the case of New Castle County, in ~~at least 2 newspapers,~~ 1 of which is the newspaper with the highest general circulation published in New Castle County. Such publication shall begin no later than the date on which the supplemental assessment roll was certified.

Section 24. Amend § 8343, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8343. Appeal of supplemental assessment; penalties and interest.

Within 30 days from the date on which notice of supplemental assessment is sent by the board of assessment or Department or Office of Finance ~~or Department of Land Use~~, the owner may appeal the supplemental assessment to the respective board of assessment or board of assessment review. The appeal shall be scheduled and heard by the board during its next regular appeal period as provided in this title. Pending determination of such appeal, the owner may: (1) pay the tax imposed by the supplemental assessment, and if on appeal the assessment is reduced, the owner shall be entitled to a refund of the taxes which the owner has overpaid plus interest thereon at the rate of 1% per month; or (2) not pay the tax imposed by the supplemental assessment, in which case penalties shall accrue at the rate of 1% per month on the amount of taxes computed in accordance with the determination of the appeal, and no action to collect the tax shall be taken until the appeal is determined. Such interest and penalties shall begin to accrue upon the expiration of 3 months from the date on which the unpaid tax became due and payable. Interest attributable to the overpayment of school taxes shall be paid by the school board of the districts entitled to receive such taxes.

Section 25. Amend § 8351, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8351. Determining taxation value; frequency of reassessments; assessment rate.

~~Mobile homes in this State shall be subject to a tax based on their value as rated in a nationally recognized appraisal guide. A recognized guide shall be used to determine the assessed value on mobile homes. For models not~~

appearing in a guide, the board of assessors shall contact a reputable mobile home dealer to determine value. Mobile homes shall be reassessed every 5 years. Mobile homes shall be assessed at the same tax rate as real property is assessed in the county and in the school district in which the mobile home is located. Ad Valorem assessments for mobile homes shall be developed in the same manner as real property and be predicated on their market value, taxed at the same rate as real property throughout the county and school district in which the mobile home is located and in the name of the owner. In instances where the land is leased, the land upon which the mobile home is located shall be separately assessed and shall not include the value of the mobile home located thereon. Mobile homes shall be reassessed at least every 5 years.