SPONSOR: Rep. Hocker & Sen. Bunting

HOUSE OF REPRESENTATIVES
144th GENERAL ASSEMBLY

HOUSE BILL NO. 402

AN ACT TO AMEND THE CHARTER OF THE TOWN OF FENWICK ISLAND, DELAWARE, CHAPTER 302, VOLUME 49, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF FENWICK ISLAND, DELAWARE", TO AMEND SECTION 6, ELECTIONS, SECTION 7, NOMINATIONS AND SECTION 9, QUALIFICATIONS OF VOTERS, TO CONFORM WITH STATE LAW AND CLARIFY CERTAIN PROVISIONS CONTAINED THEREIN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Section 6 of the Charter of the Town of Fenwick Island, Chapter 302, Volume 49, Laws of Delaware, as amended, by striking the phrase “so long as he or she is qualified to vote” as it appears therein and substituting in lieu thereof the phrase “so long as he or she holds the requirements to be a candidate”.

Section 2. Amend Section 7 of the Charter of the Town of Fenwick Island, Chapter 302, Volume 49, Laws of Delaware, as amended, by striking the third and fourth sentence thereof and substituting in lieu thereof the following:

“Voting machines shall be utilized during Annual Municipal Elections in compliance with the applicable provisions of 15 Del. C. § 7501, et seq.”.

Section 3. Further Amend Section 7 of the Charter of the Town of Fenwick Island, Chapter 302, Volume 49, Laws of Delaware, as amended by striking the following: “Any qualified voter may cast his vote by absentee ballot if he is unable to appear at the polling place because of being:

(1) In the public service of the United States or of this State; or

(2) In the Armed Forces of the United States or the Merchant Marine of the United States, or attached to and serving with the Armed Forces of the United States in the American Red Cross, Society of Friends, or United Service Organization; or

(3) Unavoidably absent from the Town of Fenwick Island on the day of the annual municipal election; or

(4) Sick or physically disabled.” in its entirety and substituting in lieu thereof the following:

“The Town may, by ordinance, provide for any qualified voter to cast an absentee ballot if such person is unable to appear and cast his, her, or its ballot.”.

Section 4. Further Amend Section 7 of the Charter of the Town of Fenwick Island, Chapter 302, Volume 49, Laws of Delaware, as amended, by adding the following paragraph:

"The procedures enacted by the General Assembly as Subchapter IV, Municipal Elections except for the City of Wilmington and Subchapter V, Absentee Voting in Municipal Elections except for the City of Wilmington, Chapter 75, Title 15, Del. C., are included and incorporated herein by reference.".

Section 5. Amend Section 9 of the Charter of the Town of Fenwick Island, Chapter 302, Volume 49, Laws of Delaware, as amended, by striking said Section in its entirety and substituting in lieu thereof the following:

"Section 9. Qualifications of Voters.

A. Voter qualifications.

(1) Resident: Every natural person, who is a citizen of the United States, age 18 or before the date of the election, a *bona fide* resident of the Town as of March 1 prior to the annual municipal election, and registered to vote, if provided by ordinance, shall have one (1) vote.

(2) Non-residents. Every property owner as of March 1 prior to the annual municipal election, whether a natural person or artificial entity, including but not limited to corporations, partnerships, trusts, and limited liability companies, and who is registered to vote, if provided by ordinance, shall have one (1) vote. A natural person shall be a citizen of the United States and age 18 on or before the date of the election. An artificial entity shall be a domestic entity in the State of Delaware.

(3) These provisions shall be construed in accordance with the principle of 'one-person/entity, one vote'. Where a voter is entitled to vote by virtue of being both a resident and as an owner of real property, that voter shall be entitled to only one (1) vote; where a voter is entitled to vote by ownership of two (2) or more parcels of real property, that voter shall be entitled to only one (1) vote.

(4) Any legal entity, other than a natural person entitled to vote, must cast its vote by a duly executed and notarized power of attorney from the legal entity granting the authority to cast its vote to its designated attorney-in-fact. Such power of attorney shall be surrendered to the election officials who shall file the same in the office of the Town. Such power of attorney so filed shall constitute conclusive evidence of the right of said person to vote in the election on behalf of the legal entity granting the power. The person casting the ballot for such entity shall be age 18 on or before the date of the election and a citizen of the United States.

B. Candidate qualifications.

(1) A natural person who is a citizen of the United States, age 21 on or before the date of the election, and a qualified voter for at least one (1) year prior to the election for which nominated; and

(2) Either:

[a] A *bona fide* resident of the Town; or

[b] A property owner in the Town.

(3) A candidate shall not have been convicted of a felony.

C. Registration.

The Town Council may, by ordinance, provide for a registration procedure.".

Section 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

SYNOPSIS

This Act amends the Charter for the Town of Fenwick Island, to comply with changes to 15 Del. C. § 7501, et seq., enacted by the 143rd General Assembly concerning municipal elections and the 144th General Assembly concerning absentee voting, to provide for a registration procedure and to clarify and modify voter qualifications.