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DELAWARE STATE SENATE  
153rd GENERAL ASSEMBLY

SENATE BILL NO. 203

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO COUNTY TAX LEVY.

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

1 Section 1. Amend § 8002, Title 9 of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows:

3 § 8002. Tax rate.

4 (a) After the budget has been adopted, the respective county governing bodies shall fix their county tax rates based  
5 upon the most recent assessment made by ~~them~~ the county governing bodies as follows:

6 (1) The county tax rate shall be stated in terms of a certain rate on every \$100 of assessed evaluation.

7 (2) Subject to the limitations of subsection (b) of this section, the county tax rate shall be such as will produce  
8 sufficient tax revenues to meet the budget requirement of the county for all purposes other than those that are not to be  
9 paid for out of the general county tax revenues.

10 (3) The county tax rate shall not include special assessments, tax specially levied to pay principal of and  
11 interest on bonds, or taxes levied for the benefit of local districts established in accordance with statutes authorizing  
12 such special taxation.

13 (4)a. A county governing body may adopt different tax rates for real property based on different real property  
14 classifications adopted by the county governing body.

15 b. Tax rates established under paragraph (a)(4)a. of this section must be uniform for all real property in  
16 the same classification, as required under § 1 of Article VIII of the Delaware Constitution.

17 (5) For purposes of this chapter, "county tax rate" means a single tax rate adopted for all classes of real  
18 property or a tax rate adopted under paragraph (a)(4) of this section.

19 (b) The county tax rate for Kent County shall not exceed the sum of \$0.50 on each \$100 of assessed evaluation.

20 (c) When any total reassessment of taxable properties within a county of this State shall have become effective, the  
21 county ~~property~~ tax rate levied for the immediately ensuing fiscal year shall not be such as to yield county property tax  
22 revenues greater than 15 percent in excess of the total of the county property taxes imposed for the fiscal year immediately  
23 preceding the fiscal year in which such reassessment shall have become effective. Any initial assessment made on new  
24 construction shall not be taken into account in determining such limitation.

25 (d) When any total reassessment of taxable properties within a county of this State shall have become effective, a  
26 county tax rate shall be computed so as to provide the same tax revenue as was levied during the prior fiscal year. That rate  
27 shall be known as the “rolled-back rate.”

28 (e) The ordinance establishing a property tax rate upon total reassessment shall state the percent, if any, by which  
29 the county tax rate to be levied exceeds the rolled-back rate computed pursuant to subsection (d) of this section, which shall  
30 be characterized as the percentage increase in property taxes adopted by the governing body. Within 15 days of the meeting  
31 at which the ordinance shall be considered by the governing body, the county shall advertise, in a newspaper of general  
32 circulation in the county, said percentage increase in the county tax rate.

33 Section 2. Amend § 8003, Title 9 of the Delaware Code by making deletions as shown by strike through and  
34 insertions as shown by underline as follows:

35 § 8003. Time and method of levying county tax.

36 (a) After the respective county governing body has fixed the county tax rate, it shall levy the county tax for the  
37 next fiscal year according to ~~such~~ the county tax rate applied to the most recent assessment list in the county.

38 Section 3. Amend § 8005, Title 9 of the Delaware Code by making deletions as shown by strike through and  
39 insertions as shown by underline as follows:

40 § 8005. Tax collection warrants; form.

41 (a)(1) ~~At~~ Subject to paragraph (a)(2) of this section, at the time of delivery of the duplicate assessment lists to the  
42 respective receivers of taxes and county treasurers, there shall be attached to each list a tax collection warrant which shall  
43 be executed in the manner and substantially in the form prescribed by subsections (b) and (c) of this section.

44 (2) If a county governing body has adopted a tax rate authorized under § 8002(a)(4) of this title, the tax  
45 collection warrant form under subsection (c) of this section may be changed to reflect the different tax rate for each  
46 class of real property.

47 Section 4. Amend § 8101, Title 9 of the Delaware Code by making deletions as shown by strike through and  
48 insertions as shown by underline as follows:

49 § 8101. Property subject to county taxation.

50 (a) All real property situated in this State shall be liable to taxation and assessment for public purposes by the  
51 county in which the property is located, except as otherwise provided in this chapter.

52 (b) ~~Real property all of which shall be taxed at the same rate,~~ property shall consist of the following:

53 (1) Land;

54 (2) Buildings;

55 (3) Improvements; and

56 (4) Special betterments.

57 Section 5. This Act applies to county tax rates adopted before, on, or after the effective date of this Act.

#### SYNOPSIS

This Act codifies Delaware's longstanding common law recognition of the authority of Delaware counties and municipalities to separately tax different classes of real property if the classification is reasonable and, under § 1 of Article VIII of the Delaware Constitution, the tax rates are uniform for all real property in each classification. See *Green v. Sussex County*, 668 A.2d 770, 776 (Del. Super. Ct. 1995), *aff'd* 667 A.2d 1319 TABLE (Del. 1995); *Aetna Cas. & Sur. Co. v. Smith*, 131 A.2d 168, 177-78 (Del. 1957); *Phila. B & W R. Co. v. Mayor & Council of Wilm.*, 57 A.2d 759, 765-66 (Del. Ch. 1948); *Conrad v. State*, 16 A.2d 121, 125-26 (Del. 1940).

As this Act is a codification of longstanding authority of taxing authorities to separately tax different classes of real property, Section 5 of this Act makes clear that this Act applies to county tax rates retroactively and prospectively.

Author: Senator Mantzavinos