



SPONSOR: Sen. Pettyjohn & Rep. Dukes
Sens. Buckson, Hoffner, Huxtable, Lawson, Lockman,
Mantzavinos, Poore, Richardson, Sokola, Townsend;
Reps. Hilovsky, Jones Giltner, Michael Smith, Wilson-
Anton

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 204

AN ACT TO AMEND TITLE 22 OF THE DELAWARE CODE RELATING TO MUNICIPAL TAX RATES BASED ON PROPERTY CLASSIFICATION.

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

- 1 Section 1. Amend Chapter 11, Title 22 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:
- 3 § 1107. Tax Rates.
- 4 (a) A municipality may establish, by local law or ordinance, a different tax rate for each of the following:
- 5 (1) Residential real property.
- 6 (2) Nonresidential real property.
- 7 (b) Tax rates established under subsection (a) of this section must be uniform for all property in the same
8 classification, as required under § 1 of Article VIII of the Delaware Constitution.

SYNOPSIS

This Act codifies the longstanding authority of Delaware counties and municipalities, under common law, to separately tax different classes of real property if the classification is reasonable and, as required under § 1 of Article VIII of the Delaware Constitution, the tax rates are uniform for all 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).

The City of Wilmington has different tax rates for residential and non-residential properties and upon enactment on July 30, 2025, House Substitute No. 1 for House Bill No. 144 amended the Charter of the City of New Castle to allow varying tax rates based on property classification. This Act clarifies that all municipalities have this authority, avoiding the need for separate legislation amending the municipal charter of each municipality to provide this clarity.

This Act requires a greater than majority vote for passage because § 1 of Article IX of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to amend a charter issued to a municipal corporation.

Author: Senator Pettyjohn