



SPONSOR: Rep. J. Johnson & Sen. Townsend
Reps. Mitchell, D. Short, K. Williams; Sen. Hansen

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 188

AN ACT TO AMEND TITLE 9 AND 25 OF THE DELAWARE CODE RELATING TO LIENS OF POLITICAL SUBDIVISIONS AND MUNICIPALITIES.

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

1 Section 1. Amend Section 2907, Title 9 of the Delaware Code by making deletions as shown by strike through
2 and insertions as shown by underline as follows:

3 § 2907. Abatement; creation of tax lien.

4 (a) If after due notice, either actual or constructive, is given by the Department of Land Use to the person
5 responsible for the property, and where such person has had the opportunity to be heard by an administrative tribunal or a
6 court of competent jurisdiction, such person fails to comply with the notice or order and the illegal action or condition
7 continues to exist, the Department of Land Use may cause such violation to be removed, corrected, abated or otherwise
8 made safe and sanitary. The Department of Land Use may incur any expense of razing, demolishing, removing or repairing
9 unsafe or illegal buildings and structures, and may incur any expense necessary or incidental to abating violations of the
10 New Castle Property Maintenance Code or other provisions of the New Castle County Code that constitute a threat to the
11 public health, safety or welfare ~~and~~ or to provide for the sanitary condition, safety, ~~and~~ or security of the property, structure
12 or building.

13 (b) All expenses incurred by the Department of Land Use pursuant to this section ~~and all fines and penalties~~
14 ~~associated with violations of the New Castle Property Maintenance Code~~ shall be a tax lien on the parcel of real property
15 that the expense is incurred upon or which is the subject of the notice or order. Upon certification of a tax lien by the
16 Department of Land Use, the amount of such lien shall be recorded and collected in the same manner as other county real
17 estate taxes, and paid to New Castle County, when collected.

18 (c) Any unpaid fine or civil penalty associated with violation of the New Castle Property Maintenance Code or any
19 other provision of the New Castle County Code that provides for the sanitary condition, safety, or security of a property,
20 structure or building, such fine or civil penalty being final and non-appealable, may be added to local property tax billings
21 for the property which was the subject of said notice or order and collected in the same manner as other county real estate
22 taxes, and paid to New Castle County, when collected.

23 ~~(e)~~(d) New Castle County may also ~~maintain a civil action~~ maintain any action at law or in equity for the
24 recovery thereof against such person responsible of expenses incurred by the Department of Land Use for the collection of
25 charges, fees, fines, and penalties assessed pursuant to this chapter, including, without limitation, proceedings pursuant to a
26 Writ of Monition.

27 Section 2. Amend Section 2901, Title 25 of the Delaware Code by making deletions as shown by strike through
28 and insertions as shown by underline as follows:

29 (a)(1) Except as otherwise provided, "lien" or "liens" as used in this section shall arise whenever the following
30 charges, as defined in this section, are levied or imposed by the State or any political subdivision thereof
31 (including the Levy Court or county council of any county, any united, consolidated or incorporated school
32 district, or any incorporated town or city in this State) and such charges become due:

33 a. Real property taxes, including penalty and interest thereon;

34 b. School taxes, including taxes for a vocational-technical high school district or county vocational-
35 technical center district, including penalty and interest thereon;

36 c. Service charges for maintenance or use of sewer systems, including penalty and interest thereon;

37 d. Service charges for maintenance or use of water systems, including penalty and interest thereon;

38 e. Service charges for garbage collection;

39 f. Charges for the costs of removing, repairing, razing or demolition of unsafe or illegal buildings,
40 structures and related building systems done through public expenditure;

41 g. Charges for duly authorized improvements or maintenance to the exteriors of buildings or property
42 done through public expenditure;

43 h. Assessments for the installation of sewer lines, water mains, sidewalks and curbing, including penalty
44 and interest thereon;

45 i. Fines ~~imposed by any court and/or~~ and civil penalties ~~imposed by the City of Wilmington or any~~
46 department of the City of Wilmington, for associated with local building, property, maintenance, zoning,
47 subdivision, drainage, sewer, housing, sanitation, or animal code citations, tickets, or violations. ~~The~~ When
48 authorized by local ordinance, the unpaid amounts of such fines ~~and/or~~ and civil penalties may be added to local
49 property tax billings for the property which was the subject of said citation, ticket or violation, ~~when authorized by~~
50 local ordinance. "Civil penalties" as used in this section shall include any assessment, fee, charge, or penalty
51 issued pursuant to an administrative procedure adopted by any political subdivision of the State with authority to
52 implement such administrative procedure, the imposition of such civil penalty being final and non-appealable.

53 "Fines" as used in this section shall ~~also~~ include any fine imposed by any court and any civil judgment awarded to
54 the State or any political subdivision thereof entered pursuant to § 4101 of Title 11 or otherwise;

55 j. Fees imposed by law or ordinance of any political subdivision of the State, which shall include,
56 without limitation, municipal corporations, for registration of ownership of any vacant buildings located within the
57 political subdivision, the imposition of which fees is final and non-appealable; and

58 k. ~~Charges for the costs of removing weeds, grasses, refuse, rubbish, trash or other waste material done~~
59 ~~through public expenditure.~~ Charges for the cost of removal, abatement or correction of any violation of local
60 building, property maintenance, zoning, drainage, sewer, housing, or sanitation code done through public
61 expenditure. When authorized by local ordinance, the unpaid amounts of such charges may be added to local
62 property tax billings for the property which was the subject of violation and collected in the same manner as other
63 real estate taxes.

SYNOPSIS

Criminal and administrative enforcement of laws and ordinances relating to the condition of real property and abatement of violations thereof is a significant expense of local governments. The growing number of vacant and abandoned properties has increased these costs to local governments. The owners of vacant and abandoned property routinely fail to respond to the issuance of violation notices, citations, and tickets. Thus, the local government, at taxpayer expense, is left to maintain the property in a condition that will protect the public health, safety and welfare and minimize the deleterious effect the unmaintained property has on the local community. When a property owner fails or refuses to maintain real property according to minimum code standards, the costs incurred by local government for enforcing its codes and abating violations thereof, should be borne by the property owner rather than the taxpayers. Thus, this bill is intended to clarify that costs associated with enforcement of local laws and ordinances relating to the condition of real property and abatement of violations of those laws and ordinances shall be a lien against the property subject to the enforcement action. Recoupment of costs associated with the enforcement of building, property maintenance, zoning, drainage, sewer, housing, or sanitation codes is a lengthy and expensive process for local governments. This bill clarifies that local governments may include the amount of the lien on the local tax billing of the property subject to the enforcement action may collect the lien in the same manner as other property taxes.