

CHAPTER 383
FORMERLY
HOUSE BILL NO. 313

AN ACT TO AMEND THE CHARTER OF THE CITY OF REHOBOTH BEACH RELATING TO TAXES.

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 22 of the Charter of the City of Rehoboth Beach as follows:

Tax Assessor

Section 22.

a. The Commissioners of Rehoboth Beach shall appoint a qualified person or firm to serve as Tax Assessor. Such person or firm shall serve until a new person or firm has been duly appointed by the Commissioners.

b. No person or firm shall be appointed as the Tax Assessor of the City of Rehoboth Beach who is not fully qualified under the regulations and Code of the State of Delaware to perform real estate tax assessments.

c. It shall be the Tax Assessor's duty to make a fair and impartial assessment of property subject to taxation situated within the City and to perform such other duties in reference thereto as shall be prescribed, from time to time, by The Commissioners of Rehoboth Beach.

Section 2. Amend Section 23 of the Charter of the City of Rehoboth Beach as follows:

Assessment of Taxes

Section 23.

a. The Tax Assessor shall, prior to the first Monday in March, make a just, true and impartial annual valuation or assessment of all real estate and of all improvements having a valuation of at least One Thousand Dollars (\$1,000.00) located on land which has been leased under a valid lease for a term of at least ten (10) years and which lease has been recorded in the Office of the Recorder of Deeds, in and for Sussex County, located within The City of Rehoboth Beach. In making such assessment, the rules and exemptions now applicable by law to the making of the County Assessment of persons and properties shall be applicable insofar as consistent with the provisions of this Charter. All real estate and all improvements located on land under a valid lease, as aforesaid, shall be described with sufficient particularity to be identified. Real estate shall be assessed to the owner or owners if he or they be known. All improvements located on land under a valid lease, as aforesaid, shall be assessed to the leaseholder. If the owner or owners of real estate cannot be found or ascertained, it may be assessed to "Owner Unknown". A mistake in the name of the owner or owners, or a wrong name, or an assessment to "Owner Unknown," shall not affect the validity of the assessment of any municipal tax or assessment based thereon; provided, the assessment shall specify the last record owner or owners thereof as the same shall appear from the records in the Office of the Recorder of Deeds of Sussex County at Georgetown, Delaware.

b. The Tax Assessor shall in a timely manner send by first-class mail a written notice to any property owner whose assessment is changed indicating the new valuation placed thereon.

c. The Tax Assessor, after making such annual assessment, shall, on the first Monday of March, aforesaid, deliver to The Commissioners of Rehoboth Beach a list containing the names of all persons assessed and the amount of the assessment against each. They shall also deliver at such time as many copies of said list as The Commissioners shall direct.

d. The annual assessment list shall be arranged so that the assessment of land, the improvements thereon, and any improvements located on lands under lease as defined herein appear in separate columns or spaces. All assessments of value made by the Tax Assessor shall be made accordingly.

e. Any real property owned in whole or in part by a Tax Assessor or a member of a Tax Assessor's immediate family, if an individual, shall be assessed by the Commissioners of Rehoboth Beach. Any real property owned in whole or in part by an owner or employee of the Tax Assessor or a member of their immediate family, if a firm, shall be assessed by the Commissioners of Rehoboth Beach.

f. Immediately upon receiving the annual assessment list from the Tax Assessor, the Commissioners of Rehoboth Beach shall cause a full and complete alphabetically arranged copy of the same, containing the amount assessed to each taxable to be posted in City Hall in the City of Rehoboth Beach, and there it shall remain for a period of at least ten days for the information of and examination by all concerned. Appended thereto and also in five or more public places in said City shall be posted notices advising all concerned that any property owner or leaseholder who desires to appeal their assessment shall file an appeal, in writing, with the City Manager of the City of Rehoboth Beach stating the reason or reasons therefor not later than a certain day mentioned therein which date shall not be earlier than ten days after the date of posting the true and correct copy of the annual assessment list.

g. At the first regular meeting of the Commissioners of the City of Rehoboth Beach following the expiration of the time set for filing an appeal, the Commissioners of Rehoboth Beach will fix a time and date when the Commissioners of Rehoboth Beach will sit as a Board of Appeals to hear appeals timely filed in writing taken from the said annual assessment as determined by the Tax Assessor. Any person taking an appeal before the Commissioners of the City of Rehoboth Beach sitting as a Board of Appeals may appear in person or may be represented by any third party who has written authorization to so appear. The decision of the Commissioners of Rehoboth Beach sitting as a Board of Appeals shall be final and conclusive unless an appeal is taken to the Superior Court of the State of Delaware, in and for Sussex County, within ten days from the date of the said hearing, and the Commissioners of Rehoboth Beach shall revise and complete said assessment at this sitting.

h. No Commissioner shall sit as a member of the Board of Appeals upon his own appeal, but the appeal by any Commissioner of the City of Rehoboth Beach shall be heard and determined by the other members of the Board of Appeals in the same manner as hereinbefore provided.

i. The Tax Assessor shall be present on the day fixed for hearing appeals and shall furnish to the Commissioners such information and answer such questions as the Commissioners may require in respect to any assessment from which an appeal has been taken. The Commissioners shall have authority to enforce the attendance of the Tax Assessor by appropriate process.

Section 3. Amend the Charter of the City of Rehoboth Beach by adding a new Section 23A as follows:

Supplemental Assessment

Section 23A.

a. In addition to the annual assessment provided for herein, the City Manager may, at the City Manager's option, direct the Tax Assessor to prepare a quarterly supplemental list for the purpose of adding property not included on the last assessment or increasing the assessed value of property which was included on the last assessment. The supplemental list may be used to correct errors on the prior assessment rolls and to remove or modify any exemption from taxation applicable to property in the City.

b. Such supplemental list shall be prepared quarterly in each tax year. The first such supplemental list shall be certified on July 1 of each year; the second on October 1 of each year; the third on January 1 of each year; and the fourth on April 1 of each year.

c. On the date of certification of a supplemental list, the property owners listed thereon shall be liable to pay taxes equal to the assessed value of the property multiplied by the tax rates for the then current tax year applicable to the property, reduced by 25% where the property is listed on the second supplemental assessment roll; by 50% where the property is listed on the third supplemental assessment roll; and by 75% where the property is listed on the fourth supplemental assessment roll; and the amount of such tax shall be and remain a lien on such property from the time of its certification. In the collection of said taxes, before the first day of the second month after certification, there shall be no penalty. On all taxes paid after the first day of the second month after certification, a penalty at the rate of one and one-half percent (1½%) shall be added until the same shall have been paid. All taxes unpaid after the first day of the second month after certification shall be considered delinquent. In effecting collection of any delinquent tax, the Commissioners of the City of Rehoboth Beach may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and any penalty imposed thereon.

d. Appeals shall be made to the Board of Appeals as provided in Sections 23(f) through (i). In no case shall the supplemental assessment procedure be employed to impose taxes retroactively.

Section 4. Amend Section 24 of the Charter of the City of Rehoboth as follows:

Levy of Annual Taxes

Section 24.

a. At the regular meeting in June, after having revised and completed the assessment, The Commissioners shall determine, to their best judgment and knowledge, the total amount necessary to be raised by The City to meet all fixed and anticipated expenses and obligations of The City, including reasonable and appropriate reserve, for the then current fiscal year as set forth in the City Budget for such year plus a reasonable amount to cover unanticipated expenses and emergencies.

b. The Commissioners shall then proceed to determine, in their sole discretion, from which sources of the authorized revenues of the City the amount so determined by them shall be raised and, within the limits prescribed by this Charter with respect to any such source, the amount to be raised from each such source. The Commissioners shall then proceed to determine, assess, fix and/or levy:

1. the rate of tax on real estate including improvements thereon per One Hundred (\$100.00) of assessed value and the rate of tax on improvements per One Hundred (\$100.00) of assessed value located on land under a lease for a period of at least ten (10) years which said lease has been recorded in the Office of the Recorder of Deeds, in and for Sussex County; and/or

2. the rate of tax upon all poles, constructions, erections, wires and appliances more particularly mentioned, or intended so to be in sub-Section 29(a)(32) of this Charter, as amended; and/or

3. the several license fees to be charged for carrying on or conducting of the several businesses, professions or occupations more particularly mentioned, or intended so to be, in sub-Section 29(a)(33) of this Charter, as amended; and/or

4. the several rates to be charged for furnishing water service, sewer service, electric service, gas service, garbage and refuse collection; and/or

5. the fees or rates to be charged in respect of any other authorized source of revenue sufficient in their best judgment and estimation to realize the amount to be raised from each such source determined by them to be used, as aforesaid: Provided, however, that sources 3, 4 and 5 aforementioned, may be determined, fixed, assessed, levied and/or altered or changed upon other than a fiscal year basis and at any other regular or special meeting of The Commissioners as they in their own proper discretion shall determine.

c. Immediately after their regular meeting in June of each and every year, The Commissioners shall make, or cause to be made, a full, true and correct annual tax list showing the amount of tax levied against each taxable thereon from sources 1 and 2 abovementioned. This list shall be known as the annual tax list of the City of Rehoboth Beach. In addition to the information contained in the assessment list, it shall likewise contain information as to the rate of tax upon real estate per \$100 of assessed value thereof.

d. The Commissioners shall cause to be delivered to the City Manager a duplicate of said annual tax list, and the City Manager shall immediately proceed to collect the same as hereinafter provided.

e. Nothing contained in this Charter shall be construed to effect or impair in any way the validity of any tax, fee, assessment or other charge lawfully levied, assessed, or due the City of Rehoboth Beach under existing laws in reference to said City and the same are hereby declared to be valid, binding and vested in the City of Rehoboth Beach created hereby.

Section 5. Amend Section 25 of the Charter of the City of Rehoboth Beach as follows:

Collection of Annual Taxes

Section 25.

a. The City Manager, as soon as The Commissioners shall have placed in his or her hands the duplicate annual tax list, shall proceed at once to collect the taxes on said duplicate list.

b. All taxes so laid or imposed by The Commissioners of Rehoboth Beach in such annual tax list, shall be and constitute a lien upon all the real estate together with improvements located thereon and a lien upon any improvements located on land under lease, as defined herein, of the taxable against or upon whom such taxes are laid or imposed, of which such taxable was seized or possessed, at any time after such taxes shall have been levied

and imposed, that is situated in The City of Rehoboth Beach. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so levied. Such lien shall have preference and priority to all other such liens on real estate or upon improvements located on land under lease as prescribed herein created or suffered by said taxable although such other lien or liens be of a date prior to the time of the attaching of such lien for taxes; provided that the lien for such City taxes shall remain a lien for a period of ten years from the date upon which the Commissioners shall deliver unto the City Manager the tax list therefor. If such real estate, or improvements located on land under lease as defined herein, remains the property of such person or persons who owned it at the time the tax was laid, then the lien shall not be extinguished until the tax is collected.

c. All taxes, when and as collected by the City Manager shall be paid to or deposited to the credit of the City in a banking institution approved by the Commissioners, and all taxes shall be due and payable at and from the time of the delivery of the tax list to the City Manager.

d. All taxes shall be payable at the City Office of the City of Rehoboth Beach during regular business hours of that office.

e. In the collection of said taxes, the City Manager shall neither deduct nor abate any amount from the tax assessment. On all taxes remaining unpaid on and after the first day of September next following the mailing of the original tax statement, there shall be added a penalty of one and one-half percent (1½%) per month for each month or part thereof such taxes shall remain unpaid, said penalty to be effective on the first day of September, and said penalty shall be collected in the same manner as the original amount of the tax. The Commissioners shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid on and after the first day of September shall be considered delinquent. In effecting collection of any delinquent tax, The Commissioners may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax, and any interest or penalty imposed thereon.

Section 6. Amend Section 26 of the Charter of the City of Rehoboth Beach as follows:

Section 26.

[Reserved]

Section 7. Amend Section 27 of the Charter of the City of Rehoboth Beach as follows:

Collection of Delinquent Taxes

Section 27.

a. Before exercising any of the powers hereinafter given for the collection of taxes, written notice of the amount due shall be sent to the taxable at his last known address.

b. The City Manager, when any tax has become delinquent, may, in the name of the City of Rehoboth Beach institute suit before any Justice of the Peace or Court of the State of Delaware, in and for Sussex County, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may issue Writs of Execution as in case of other judgments recovered before a Justice of the Peace or other Court, as the case may be, provided however that, as to any personal property of the taxable in Sussex County levied upon by the Sheriff within sixty days after the writ of execution was delivered into his hands, the lien of judgment shall have priority over all other liens against such personal property created or suffered by the taxable, except such liens thereon which may have been created in respect to County Taxes, although such other liens be of date prior to the time of the attachment of the said tax liens to the personal property so levied upon.

c. Should the City Manager so elect, and without the necessity of first employing any or all of the other remedies herein provided the City Manager is authorized and empowered to sell the lands and tenements of the delinquent taxpayer alienated by a delinquent taxpayer subsequent to the levy of the tax by the following procedure:

The City Manager shall present in the name of the City of Rehoboth Beach to the Superior Court of the State of Delaware in and for Sussex County a petition in which shall be stated:

- (1) The name of the taxable.
- (2) The year for which the tax was levied.
- (3) The rate of the tax.
- (4) The total amount due.

(5) The date from which the penalty for non-payment, if any, shall commence and the rate of such penalty.

(6) A short description of the lands and tenements proposed to be sold sufficient to identify the same.

(7) A statement that a bill of said tax has been mailed to the taxable at their last known post office address with return receipt requested by certified mail and postage prepaid, together with a notice that the City Manager would proceed to sell the lands and tenements of the taxable for payment of the tax assessment; and the date of such mailing.

(8) That it has been found impractical to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.

d. At least ten (10) days prior to the filing of any such petition, the City Manager shall deposit in the mail, in a sealed and stamped envelope and addressed to the taxable at his last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all penalties, collection charges, and costs then due thereon, together with a notice to the delinquent taxpayer that he or she shall proceed to sell the lands and tenements of the taxable for the payment of the tax. The City Manager shall exhibit the return registry receipt to the Court by filing the same with the petition; provided, however, that if the taxpayer cannot be found, or if delivery is refused, it shall be sufficient for the City Manager to file with said petition the evidence that such statement has been mailed in accordance with this subsection and has been returned.

e. Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Court and shall endorse upon said record of said petition, the following:

"This petition filed the day of -----A. D. -----(giving the day and year The City Manager of the City of Rehoboth Beach is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof, for the payment of the amount due". The endorsement shall be signed by the Prothonotary.

f. The City Manager shall then proceed to advertise the lands and tenements of the taxable by posting handbills in at least five (5) public places in the City of Rehoboth Beach (one of which shall be posted on the premises) and publishing the notice of said sale in a newspaper published in Sussex County. The notice shall contain the day, hour and place of sale and a short description of the premises sufficient to identify the same. The notice shall be posted at least ten (10) days before the day fixed for sale and shall be published in the newspaper at least one week before the day of sale.

g. Each sale of lands and tenements shall be returned to the Superior Court, aforesaid, at the next Motion Day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. No sale shall be approved by the Court if the owner be ready at the Court to pay the taxes, penalty, collection fees, and costs. If it set aside the sale, the Court may order another sale and so on until the tax is collected. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title, and interest of the delinquent taxpayer or his alienee; provided, however, that no deed shall be delivered to the purchaser until the expiration of one year from the date of the sale within which time the taxpayer or his alienee, heirs, executors, administrators, or assigns, shall have the power to redeem the lands on payment to the purchaser, his personal representatives or assigns, the costs, the amount of the purchase price, plus twenty percent and the expense of having the deed prepared. All taxes assessed after the sale and before the delivery of the deed shall be paid by the purchaser at said sale who shall be reimbursed by the delinquent taxpayer in the event of redemption to which shall be added twenty percent thereon.

In the event the purchaser refuses to accept the same, or in the event he or she, their heirs or assigns, cannot be located within the State of Delaware, it shall be lawful for the owner, their heirs, executors, administrator, and assigns, to pay the redemption money to the City Manager of Rehoboth Beach and upon obtaining from him or her a receipt therefore, such receipt shall be considered for all intents and purposes a valid and lawful exercise of the power to redeem the land so sold.

In the event the lands have not been redeemed within the redemption year, the City Manager shall deliver to the purchaser, their heirs, executors, administrator, or assigns, a deed which shall convey the title of the taxable or assessee.

The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

h. After satisfying the tax and the cost and expenses of sale from the proceeds of the sale, the amount remaining shall be paid to the owner of the land. Should the owner of the land refuse to accept said residue, or the owner is unknown or cannot be found the amount remaining shall be deposited in some bank either to the credit of the owner, or in a manner by which the fund may be identified.

i. In the sale of land for the payment of delinquent taxes, the following costs shall be allowed to be deducted from the proceeds of the Sale, or chargeable against the owner, as the case may be, in the amount customarily charged:

(1) To the Prothonotary for filing and recording the petition

(2) For filing and recording the Return of Sale;

(3) To the City Manager for (1) preparing the Certificate, (2) making the sale of lands, (3) preparing and filing a return, (4) posting sale bills. In addition, the costs of printing handbills, the publication of the advertisement of sale in a newspaper, and the auctioneer's fee, if any, shall be chargeable as costs. The costs of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer. The total of any Delaware transfer tax shall be paid by the purchaser of said lands at the tax sale.

j. If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale and in the Petition to the Court.

k. If any person is assessed for several parcels of land and tenements in the same assessment, the total of said taxes may be collected from the sale of any part or portion of said lands and tenements.

l. In the event of death, resignation or removal from office of the City Manager of the City of Rehoboth Beach before the proceedings for the sale of lands shall have been completed, their successor in office shall succeed to all of their powers, rights, and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to their receiving a deed for the property purchased thereat, the person having right under them by consent, devise, assignment, or otherwise, may refer to the Superior Court of the State of Delaware, in and for Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to execute and acknowledge a deed conveying to the petitioner the premises so sold, and thereupon the court may make such order touching the conveyance of the premises as shall be according to justice and equity.

m. The City Manager shall have the same right to require the aid or assistance of any person or persons in the performance of their duty of sale which the Sheriff of Sussex County now has by law or may hereafter have.

n. In addition to all other remedies, methods and authorities for the collection of taxes, The Commissioners may use the monition method for the collection of such taxes as established for Sussex County and authority is thereby established for them to do so.

Section 8. Amend Section 30 of the Charter of the City of Rehoboth Beach as follows:

Collection of Charges Due The City

Section 30.

a. In the collection of charges due the City including but not limited to rents, gross receipts taxes, water rentals, sewer service charges, electric bills, gas bills, license fees, tapping fees, front foot assessments, charges growing out of abatement of nuisances, laying out and repairing paving, graveling, curbing, or any of them, shall become a first lien against all real estate of the delinquent property owners situated within the City and such charges shall have preference and priority for a period of ten years from the date the charge became due and owing to all other liens on real estate created or suffered by the taxable and property owner, although such other lien or liens be of a date prior to the time for the attaching of such liens for such charges.

b. The authorities, remedies, and powers available to the City Manager for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

Approved August 01, 2014