

SPONSOR: Rep. Smyk & Sen. Lopez

148TH GENERAL ASSEMBLY  
HOUSE/SENATE BILL NO.

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MILTON RELATING TO ITS ENUMERATED POWERS.

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 29(a)(10) of the Charter of the Town of Milton by making deletions as shown by strike through and insertions as shown by underline as follows:

(10) To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, or fills for the preservation of any strand, or high land within the limits of the Town, and contiguous thereto, to the end that the same may be preserved, ~~property~~ and protected that the general public might enjoy the use thereof, ~~and to assure that all and any construction, apart from these listed above, begin 50 feet from the both high tidal and fresh water ponds, lakes and rivers.~~ In any case, the Town of Milton must be in compliance with state and federal provisions.

Section 2. Amend Section 29(a)(26) of the Charter of the Town of Milton by making deletions as shown by strike through and insertions as shown by underline as follows:

(26) To levy and collect taxes for any and all municipal purposes upon all real ~~estate~~ property and improvements located thereon; provided, however, that the amount to be raised from this source shall not exceed in any one year the sum of ~~One Million Dollars (\$1,000,000.00)~~ equal to one percent (1%) of the assessed value of all such taxable real property and improvements thereon situated within the corporate limits of the Town of Milton if the Town contracts for a Town Assessor or thirteen percent (13%) if the Town adopts the Sussex County assessed values; and provided further that there shall be no limitation upon the amount which may be raised from the taxation of real estate for the payment of interest on and principal of any bonded indebtedness whether herein before or hereafter incurred;

Section 3. Amend Section 29(a)(27) of the Charter of the Town of Milton by making deletions as shown by strike through and insertions as shown by underline as follows:

(27) To levy and collect taxes upon the transfer of real property or any interest in real property situate within the corporate limits of the Town of Milton, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur in accordance with Chapter 16, Title 22 of the Delaware Code; ~~provided however, that no tax levied under this Section shall exceed fifty (50%) of any tax levied by the State of Delaware upon the same property~~; and provided further, that no tax shall be levied upon any organization exempted from valorem real estate taxes.

Section 4. This Act shall take effect immediately upon its enactment into law.

### SYNOPSIS

This bill amends the Charter of the Town of Milton. Section 1 removes a limitation on the Town's ability to adopt appropriate zoning and construction regulations for areas specifically near ponds, lakes, and rivers. The Town has adopted via ordinance construction and zoning regulations, with the latter being authorized in Chapter 3, Title 22 of the Delaware Code without the limitation presently in the Charter.

Section 2 involves the limit on the amount of real property taxes that the Town may levy and collect. Specifically, the bill substitutes a percentage for the "hard cap" of \$1,000,000. This is in recognition of continued growth and development adding to the taxable base, as well as the increase in property values reflected in the last Town-wide assessment. These developments have contributed to the Town approaching the \$1,000,000 mark, which functionally serves as a limit on the Town's ability to allow continued growth.

Section 3 resolves a potential ambiguity between the Town Charter and Chapter 16, Title 22 of the Delaware Code. The Charter currently limits the Town's realty transfer tax to half of the State's transfer tax. Thus, under the Charter, the Town would be allowed to collect a transfer tax of .75%, because the State collects a tax of 1.5%. However, Title 22, Section 1601 of the Delaware Code authorizes municipalities to collect a transfer tax not be greater than 1.5% of the value of the real property. The bill incorporates by reference the 1.5% limitation from the Delaware Code.