

CHAPTER 436
FORMERLY
HOUSE BILL NO. 395
AS AMENDED BY
HOUSE AMENDMENT NO. 1,
SENATE AMENDMENT NO. 1,
SENATE AMENDMENT NO 2
AND SENATE AMENDMENT NO. 3

AN ACT TO AMEND VOLUME 65, CHAPTER 295, LAWS OF DELAWARE, AN ACT TO REINCORPORATE THE TOWN OF BETHANY BEACH REGARDING THE REFERENDUM POWER, AND TO ALLOW NATURAL PERSONS HOLDING TITLE TO REAL ESTATE AS TRUSTEE, TO VOTE IN MUNICIPAL ELECTIONS; AND PLACING A LIMIT ON THE TOTAL NUMBER OF PERSONS WHO MAY QUALIFY TO VOTE AS A "NONRESIDENT PROPERTY OWNER" TO A MAXIMUM OF EIGHT PERSONS PER PROPERTY.

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

WHEREAS, it is deemed advisable that the Charter of the Town of Bethany Beach, contained in Volume 65, Chapter 295, Laws of Delaware, entitled Charter of the Town of Bethany Beach, as thereafter amended, be amended with regard to the referendum procedure and to allow trustees of certain trusts holding legal title in the Town to vote in municipal elections;

NOW THEREFORE:

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 24.1 of Volume 65, Chapter 295, Laws of Delaware by striking in the first sentence thereof the phrase "any adopted ordinance and to approve or reject it" and substituting in lieu thereof the following phrase:

"any previously-adopted ordinance and to approve or reject such ordinance".

Section 2. Amend Section 24.2 of Volume 65, Chapter 295, Laws of Delaware by striking the words "that day" as they appear in the first sentence thereof and substituting in lieu thereof the words "the day the referendum election is held".

Section 3. Amend Section 24.3 of Volume 65, Chapter 295, Laws of Delaware by deleting the same in its entirety and inserting in place thereof the following:

"In order to initiate a referendum under this section, a referendum petition, signed by those persons who would be qualified voters of the Town if the Town election were being held on the day that the petition is presented to the Town Council, equal in number to 15% of the qualified voters of the Town as of such date, with the local address of the person(s) so signing, shall be presented to the Town Council.

The Town shall create and provide the specific format to be used for a referendum petition which shall contain only the following:

1. statement petitioning the reconsideration of the ordinance;
2. complete text of the challenged section of the ordinance in context;
3. name and Bethany Beach address of the signer;
4. signature of the signer;
5. date the petition was signed;
6. affidavit containing the signature and Bethany Beach address of the person who circulated the petition.

The affidavit shall state that:

- a. the signer signed on the date indicated;
- b. the signer had an opportunity to read the full text of the ordinance prior to signing;
- c. the circulator is a qualified voter of the Town of Bethany Beach;
- d. the circulator personally circulated the petition;
- e. the circulator personally observed the signature by the signer;

f. the circulator believes that each person who signed is the person they claim to be, and that said person is qualified to sign the petition; and

g. the circulator is aware that submitting a false affidavit in connection with a referendum petition constitutes perjury in the second degree, a class F felony, under 11 Del.C. § 1222."

Section 4. Amend Section 24.4 of Volume 65, Chapter 295, Laws of Delaware by adding a new paragraph to read as follows:

"24.4.6 Term. No signature on any referendum petition shall be accepted as valid if signed in excess of 180 days prior to the date the referendum petition is filed at the Town Hall."

Section 5. Amend Section 24.4.4(b)(1) of Volume 65, Chapter 295, Laws of Delaware by deleting the same in its entirety and substituting in lieu thereof the following:

"(b)(1) Not less than 21 days nor more than 60 days prior to the date set for the Special Election, notice of the time, date, and place of holding the Special Election shall be: (i) published in two newspapers of general circulation in the Town; (ii) posted in five public places in the Town; (iii) posted on the Town's website; and (iv) mailed, via regular mail, to all registered voters and all non-resident freeholders of the Town at their address as shown on the Town's records. Posted and published notices shall be in bold print or bordered in black so as to call attention thereto. In the event that the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control."

Section 6. Amend Section 5.4.2 of Volume 65, Chapter 295, Laws of Delaware by deleting subparagraph (i) in its entirety and inserting in lieu thereof the following:

"(i) a 'freeholder' shall be deemed to include any natural person who holds title of record either in their own name or as trustee, to a fee simple estate or a life estate, in and to real property located within the Town boundaries;"

Section 7. Further Amend Section 5.4.2 of Volume 65, Chapter 295, Laws of Delaware by deleting the period (".") at the end of the last sentence thereof and inserting the following:

“; provided, however, anything herein to the contrary notwithstanding, not more than eight (8) persons per property shall be entitled to vote either as a 'freeholder'.”

Approved July 27, 2010