



SPONSOR: Sen. Wilson & Rep. Shupe

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 316

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SLAUGHTER BEACH RELATING TO ANNEXATION

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 the Charter of the Town of Slaughter Beach by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 §2A. Annexation of Territory. The Town may extend its municipal boundaries by annexing contiguous territory in
4 accordance with the Delaware Code. Territory that is otherwise contiguous except for its separation from the Town's
5 municipal boundaries by public roadway, street, thoroughfare, easement, or right-of-way is considered contiguous for
6 annexation purposes. The Town shall consider annexations as follows:

7 2A.1 Annexation Request by All Property Owners of Contiguous Territory.

8 2A.1.1 All property owners of a territory contiguous to the Town's municipal boundaries may request, by
9 written petition signed by each owner, the Town Council to annex the territory in which they own property. The
10 annexation petition must include a description of the territory proposed for annexation, the reasons for annexation,
11 and the proposed zoning classification.

12 2A.1.2 Upon receiving a request, the Town Council shall appoint an annexation committee consisting of
13 three (3) individuals, one (1) of whom is a Town Council member, to investigate the potential annexation.

14 2A.1.3 Within ninety (90) days of the annexation committee's appointment, the annexation committee
15 shall submit an annexation report to the Town Council that details the advantages and disadvantages of the
16 annexation to the Town and to the territory proposed for annexation and includes a recommendation on whether to
17 proceed with the annexation.

18 2A.1.4 If the committee concludes that the annexation is advantageous to both the Town and the
19 annexation territory, then the Town Council may pass, by majority vote, a resolution annexing the territory to the
20 Town. The resolution constitutes the final annexation approval, without following the procedures for annexations
21 that are requested by less than all of the property owners or that are initiated by the Town Council.

22 2A.1.5 If the committee concludes that the proposed annexation is disadvantageous to either the Town or
23 to the territory proposed for annexation and the Town Council decides to proceed with the annexation, then the
24 Town Council shall follow the procedure for annexations proposed by less than all the property owners of a
25 territory contiguous to the municipal boundaries.

26 2A.2 Annexation Request by Less Than All Property Owners of a Contiguous Territory.

27 2A.2.1 Less than all of the property owners of a territory contiguous to the Town's municipal boundaries
28 may request, by written petition signed by the petitioning property owners, the Town Council annex the territory in
29 which they own property. The petition must include a description of the territory requested to be annexed, the
30 reasons for the annexation, and the proposed zoning classification.

31 2A.2.2 Upon receiving a request, the Town Council shall appoint an annexation committee consisting of
32 three (3) individuals, one (1) of whom is a Town Council member, to investigate the potential annexation.

33 2A.2.3 Within ninety (90) days of its appointment, the annexation committee shall submit an annexation
34 report in accordance with the requirements outlined in Section 2A.1.3.

35 2A.2.4 If the annexation committee concludes the proposed annexation is advantageous to both the Town
36 and the territory proposed for annexation, the Town Council may adopt, by a majority vote of all elected Council
37 members, a public hearing resolution to schedule a public hearing to annex the territory to the Town.

38 2A.2.5 If the committee concludes the proposed annexation is disadvantageous to either the Town or the
39 territory proposed for annexation, the Town Council may adopt, by a super-majority vote of four-fifths (4/5) of the
40 elected Council members, a public hearing resolution to schedule a public hearing to annex the territory to the
41 Town.

42 2A.2.6 A public hearing resolution must describe the territory proposed for annexation, specify the
43 proposed zoning classification, and specify the date, time, and location for a public hearing on the annexation. At
44 least fifteen (15) days prior to the date of the public hearing, the public hearing resolution must be published in a
45 newspaper of general circulation in the Town and posted in at least two (2) public places.

46 2A.2.7 Following the public hearing, the Town Council may adopt a resolution establishing the date,
47 time, and location of a special election to vote on the proposed annexation. After the Town Council adopts a
48 special election resolution, the Town Council must proceed with the proposed annexation if the proposed
49 annexation is approved by voters. The special election resolution must include a description of the territory
50 proposed for annexation and the proposed zoning classification. The special election must be held in accordance
51 with § 2A.3.

52 2A.3 Special Election to Vote on Proposed Annexation.

53 2A.3.1 The special election must be held not less than thirty (30) days or more than sixty (60) days after
54 the public hearing.

55 2A.3.2 At least fifteen (15) days before the special election, the special election resolution must be
56 published in a newspaper of general circulation in the Town, and posted in two (2) public places, both in the Town
57 and in the territory proposed for annexation.

58 2A.3.3 At the special election, every resident of the Town or the territory proposed for annexation who
59 are age eighteen (18) years old or older and every owner of property in the Town or in the territory proposed for
60 annexation, including partnerships, trusts, companies, or corporations has one (1) vote. Each individual who
61 jointly owns property has one (1) vote. A life tenant has one (1) vote as to the property held as a life tenancy but a
62 holder of only a remainder interest may not vote. Only one (1) vote may be cast for a property held by a
63 partnership, trust, company, or corporation. An individual, partnership, trust, company, or corporation does not
64 have more than one (1) vote, regardless of how many parcels they own. Property owners whose property is exempt
65 from taxation or is not assessed for taxation may not vote. The records of the Town and the records of Sussex
66 County are conclusive evidence of ownership. Before voting at the special election, residents of the Town and
67 residents of the property proposed for annexation shall provide proof of residency.

68 2A.3.4 The vote of a partnership, trust, company, or corporation must be cast by an individual with a
69 power of attorney authorizing the individual to vote at the special election. The power of attorney must be filed
70 with the Town. The power of attorney is conclusive evidence of the right to vote in the special election.

71 2A.3.5 The Town shall use a form ballot that includes the following choices:

72 (a) For the proposed annexation.

73 (b) Against the proposed annexation.

74 2A.3.6 The Town Council shall appoint three (3) persons, who must be residents of the Town, to act as a
75 Board of Special Elections. The Board of Special Elections shall resolve, by majority vote, any disputes regarding
76 voter qualification. Voting must be conducted in a public place, with one (1) voting machine for residents and
77 property owners of the Town to vote and another voting machine for residents and property owners of the territory
78 proposed for annexation to vote. The polling place must be open for at least five (5) hours on the date of the
79 special election. All persons in the polling place when the polls close may vote, even though the votes are not cast
80 before the polls close.

81 2A.3.7 Immediately after closing the polls, the Board of Special Elections shall count the votes, make a
82 certificate of the results, and deliver the certificate of results to the Town Council.

83 2A.3.8 The territory proposed for annexation is annexed if a majority of the votes cast from residents and
84 property owners of the Town and a majority of the votes cast from residents and property owners of the territory
85 proposed for annexation have been cast in favor of the annexation.

86 2A.3.9 If the voters approve the annexation, then within sixty (60) days of the special election the Town
87 Council shall record a description and a plot of the annexed territory in the Sussex County Office of the Recorder
88 of Deeds. Failure to record the description does not invalidate the annexation, and the territory is part of the Town
89 from the earlier of the following:

90 (a) The date the description is recorded.

91 (b) Sixty (60) days after the special election is held.

92 2A.3.10 If the voters do not approve the annexation, then the territory proposed for annexation may not
93 be reconsidered for annexation for at least one (1) year from the date of the special election.

94 2A.4 Highways, Streets, Roads, and Alleys Adjacent to the Annexed Parcel. If the Town Council authorizes
95 an annexation, then all highways, streets, roads, and alleys immediately adjacent to the annexed parcel up to the
96 centerline, are annexed into the Town.

97 2A.5 Actions Contesting Annexation. No action contesting the annexation of any territory may be brought
98 after the expiration of sixty (60) days from the publication of a notice in a newspaper of general circulation in the
99 Town and the annexed territory.

100 2A.5.1 The public notice published under § 2A.5 must contain the following information:

101 (a) Notice that the Town has annexed territory and a description of the territory annexed.

102 (b) Notice that any individual or other legal entity desiring to challenge the annexation must bring an
103 action within sixty (60) days from the date of publication of such notice or be forever barred from doing so.

104 2A.5.2 In addition to publication under § 2A.5, the Town Council must post a public notice containing
105 the same information required under § 2A.5.1 in at least two (2) public places in the Town, viewable to the public.
106 One of the places where public notice is posted must be in the territory annexed.

107 2A.5.3 If the publications and postings do not appear on the same date, the date of the first publication or
108 posting controls.

109

SYNOPSIS

This Act creates an annexation process for the Town of Slaughter Beach to extend its boundaries in accordance with § 101 of Title 22 of the Delaware Code.

There is an expedited process that requires only the Town Council's approval if the following conditions are met:

- (1) All owners of a contiguous territory petition the Town for annexation.
- (2) If the annexation is advantageous to the Town and the territory proposed for annexation.

If less than all the owners of a contiguous territory petition for annexation or if the annexation is determined to be disadvantageous to either the Town or the territory proposed for annexation, then the Town Council must decide whether to hold a special election to vote on the proposed annexation. If the Town Council passes a resolution to hold the special election, then it must proceed with the annexation if it is approved by the special election.

Residents of the Town and the territory proposed for annexation who are age 18 years old and older may vote in the special election and have one vote. Property owners in the Town and the territory proposed for annexation may vote in the special election and have one vote regardless of whether the owner is an individual or a business entity and regardless of whether the owner owns multiple properties.

If the annexation is approved, within 60 days, the Town Council must record a description and plot of the annexed territory in the Sussex County Recorder of Deeds.

If the annexation is not approved, then the territory cannot be considered for annexation for a year from the date of the special election.

Anyone opposing an approved annexation must bring an action before 60 days after the publishing or posting of notice of the annexation.

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 municipal charter.

Author: Senator Wilson