



SPONSOR: Sen. Bunting & Rep. Atkins

DELAWARE STATE SENATE

143rd GENERAL ASSEMBLY

SENATE BILL NO. 57

AN ACT TO AMEND THE CHARTER OF THE TOWN OF DAGSBORO, CHAPTER 138, VOLUME 68, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF DAGSBORO" RELATING TO VACANCIES AND FORFEITURE OF OFFICE.

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 Dagsboro, Chapter 138, Volume 68, Section 13, by striking said
2 Section 13 in its entirety and substituting in lieu thereof the following:
- 3 “Vacancies and Forfeitures
- 4 Section 13:
- 5 A. Vacancies. The office of a Town Council member shall become vacant upon death, incapacity, resignation or
6 forfeiture of such office.
- 7 B. Forfeiture proceedings. A forfeiture of such office shall occur when any Town Council member:
- 8 1. Is no longer qualified to hold such office;
- 9 2. Willfully violates any provision of this Charter;
- 10 3. Is convicted of any felony or crime involving any felony; or
- 11 4. Fails to attend two (2) consecutive regular and/or special Town Council meetings without being
12 excused by Town Council vote.
- 13 C. Determination concerning Forfeiture. Where the conditions set forth in Section 13 B., 3 or 4 occur, forfeiture
14 shall be automatic. Where the conditions set forth in 13 B 1 or 2 are alleged, forfeiture shall be approved by
15 the remaining Town Council members. Such decision shall be made in executive session, and if the Town
16 Council determines by majority vote that a forfeiture has occurred, it shall, within forty eight (48) hours
17 thereafter, provide written notice thereof to the affected Town Council member, by certified mail, return
18 receipt requested, sufficiently posted. Written notice shall be deemed provided when deposited in first-class
19 mail with sufficient postage. The affected member shall be entitled to a hearing and then shall have thirty

20 (30) days in which to make a written request for a public hearing before the Town Council, which hearing is
21 to be held within forty five (45) days of the written request and at which hearing such member may appear
22 with the assistance of counsel and present evidence to relevant issues. The Town Council shall also hear any
23 other relevant evidence and vote again on the question of forfeiture. A determination of forfeiture shall be
24 made only by unanimous vote of the Town Council members present and entitled to vote on the question.

25 D. Failure to Request Hearing as a Bar. Failure of the affected member to make written request for a public
26 hearing as hereinabove stated shall be an absolute bar to his or her right to challenge the town Council's
27 decision. If a public hearing is held, the Town Council shall have authority to subpoena witnesses,
28 administer oaths, take testimony, and require the production of documentary or physical evidence, all of
29 which shall be done on behalf of the affected person if requested, in writing, by him/her.”

SYNOPSIS

This Amendment clarifies the provisions for vacancies and forfeitures of office for Town Council members. Specifically, an office becomes vacant upon death, incapacity, resignation or forfeiture. Forfeiture of office occurs upon disqualification, willful violations, felony convictions and consecutive absences. The Charter Amendment also provides for due process upon certain forfeitures.

Author: Senator Bunting