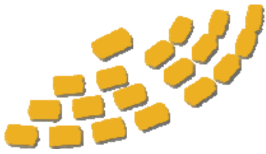

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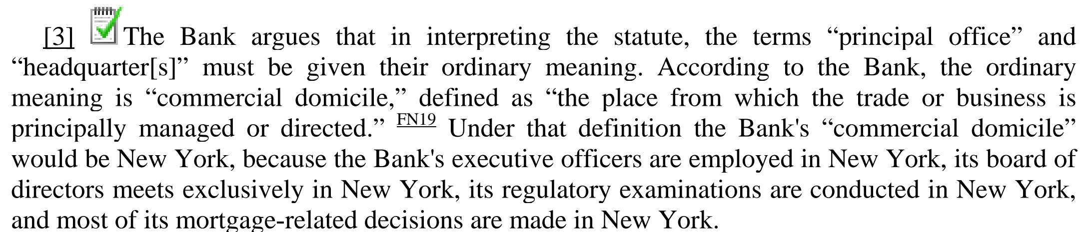
RECENT DELAWARE CASES
EXCERPTED FOR LEGISLATIVE INTENT AND HISTORY

The following cases relating to Delaware law are not exhaustive on the issue of legislative intent and history. These are only a few examples of recent court decisions excerpted for this topic in the state. ***You must review the entire court opinion to determine its applicability to your case.***

LEHMAN BROS. BANK, FSB V. STATE BANK COM'R
937 A.2D 95, DEL.SUPR., 2007.
NOVEMBER 07, 2007


[3] The Bank argues that in interpreting the statute, the terms "principal office" and "headquarter[s]" must be given their ordinary meaning. According to the Bank, the ordinary meaning is "commercial domicile," defined as "the place from which the trade or business is principally managed or directed." [FN19] Under that definition the Bank's "commercial domicile" would be New York, because the Bank's executive officers are employed in New York, its board of directors meets exclusively in New York, its regulatory examinations are conducted in New York, and most of its mortgage-related decisions are made in New York.

FN19. The "ordinary meaning" definitions suggested by the Bank are extracted either from dictionaries or from regulations that are not applicable in Delaware

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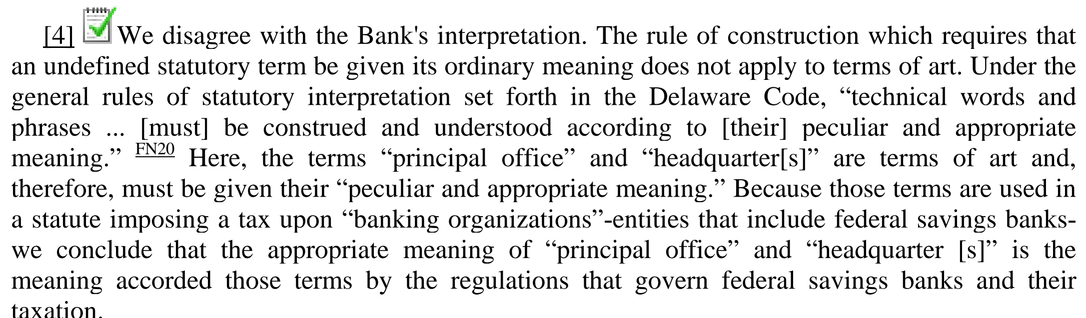
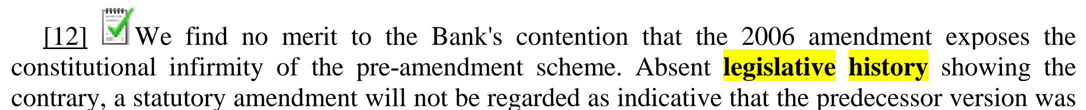

[4] We disagree with the Bank's interpretation. The rule of construction which requires that an undefined statutory term be given its ordinary meaning does not apply to terms of art. Under the general rules of statutory interpretation set forth in the Delaware Code, "technical words and phrases ... [must] be construed and understood according to [their] peculiar and appropriate meaning." [FN20] Here, the terms "principal office" and "headquarter[s]" are terms of art and, therefore, must be given their "peculiar and appropriate meaning." Because those terms are used in a statute imposing a tax upon "banking organizations"-entities that include federal savings banks-we conclude that the appropriate meaning of "principal office" and "headquarter [s]" is the meaning accorded those terms by the regulations that govern federal savings banks and their taxation.

FN20. 1 *Del. C.* § 303. *See also Shell Petroleum, Inc. v. U.S.,* 182 F.3d 212, 217-18 (3rd Cir.1999) (citing *Corning Glass Works v. Brennan,* 417 U.S. 188, 202, 94 S.Ct. 2223, 41 L.Ed.2d 1 (1974)).

…


[12] We find no merit to the Bank's contention that the 2006 amendment exposes the constitutional infirmity of the pre-amendment scheme. Absent **legislative** **history** showing the contrary, a statutory amendment will not be regarded as indicative that the predecessor version was

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unconstitutional. [FN61] Here, the **legislative history** indicates that the purpose of the amendment was "to promote economic development" [FN62] in Delaware. There is no evidence of any purpose to correct any perceived unconstitutionality of the original version.

FN61. *See People v. Regelin,* 178 Mich.App. 128, 443 N.W.2d 436, 438 (1989), where the court found that "reliance on the amendment [of a criminal statute] to support a conclusion that the Legislature recognized a constitutional infirmity in the existing statute" was "arguable."

FN62. *See* Synopsis of S.B. 249, 143rd Gen. Assem. (Del.2006).

TOMEI V. SHARP
918 A.2D 1171 (TABLE), DEL.SUPR., 2007.
JANUARY 30, 2007

***2** (6) The Superior Court found that because Tomei's whistle blowing did not relate to the State of Delaware in any way, the State could not be liable under the Delaware Whistleblowers' Protection Act. Specifically, the trial court construed the term "employer," as used in the Act,[FN3] to mean the employee's actual or current employer, not a past employer. In making this finding, the trial court reviewed House Amendment 3, a 2004 amendment to the Act had the following synopsis: "[t]his amendment specifies that whistle blowing protection under Senate Bill No. 173 is granted to employees with regard to reports of participation in investigations of acts or omissions of *their* employer." [FN4] Based on the **legislative history**, the Superior Court reasoned that the Delaware Whistleblowers' Protection Act protects only those who blow the whistle on, and are fired from, the same employer.

FN3. 19 *Del. C.* § 1702(2) (" 'Employer' means any person, partnership, association, sole proprietorship, corporation or other business entity, including any department, agency, commission, committee, board, council, bureau, or authority or any subdivision of them in state, county or municipal government. One shall employ another if services are performed for wages or under any contract of hire, written or oral, express or implied.").

FN4. Del. H.A. 3 syn., 142d Gen. Assem. (2004).

…

(8) This Court gives full effect to the Legislature's intent when construing a statute.[FN6] "Where the language of the statute is unambiguous, no interpretation is required and the plain meaning of the words controls." [FN7] If the statute, however, is ambiguous, it "must be construed as a whole in a manner that avoids absurd results." [FN8] A statute is ambiguous if it "is reasonably susceptible of different conclusions or interpretations." [FN9] A statute may also be ambiguous if "a literal interpretation to words of the statute would lead to such unreasonable or absurd consequences ... [that] could not have been intended by the legislature." [FN10] This statute is ambiguous in the sense that it is unclear whether the term "employer" applies only to current employers or includes prior or subsequent employers as well.

FN6. *Ingram v. Thorpe,* 747 A.2d 545, 547 (Del.2000).

FN7. *Id.* (citing *Spielberg v. State,* 558 A.2d 291 (Del.1989)).

FN8. *Id.*

FN9. *Coastal Barge Corp. v. Coastal Zone Indus. Control Bd.,* 492 A.2d 1242, 1246 (Del.1985).

FN10. *Id.*

(9) The Superior Court recognized this ambiguity and undertook the next step in statutory construction. That is, it looked to the legislative intent to determine the meaning of the term

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employer. In doing so, the court properly focused on the **legislative history** of the Act. As the Superior Court explained, House Amendment 3 expanded the scope of the Act to include both public and private employers. In addition, the synopsis reveals that the "Amendment specifies that whistleblower protection under Senate Bill No. 173 is granted to employees with regard to reports of or participation in investigations of acts or omissions of *their employer,* or an agent thereof...." [FN11] By modifying the term employer with the pronoun "their," it is plain that the legislature intended the Act to protect an employee only from retaliation from the employer that committed the violation as defined by § 1703.[FN12] The Superior Court gave full effect to the Legislature's intent and found the Delaware Whistleblowers' Protection Act inapplicable because Tomei has not alleged a "violation" as defined by Section 1702(6).

ESTATE OF WATTS V. BLUE HEN INSULATION
902 A.2D 1079, DEL.SUPR., 2006.
JULY 06, 2006

The **legislative history** of § 2332 explains what might otherwise seem to be a grant of greater post-death benefits to those workers who die from other causes than to those who die from their industrial accident or disease. As originally enacted, the statute required that post-death payments to dependents be reduced by the amount of prior payments made to the worker, and it provided no post-death benefits for those who died of other causes:

(d) Should the employee die as a result of the injury, the period during which compensation shall be payable to his dependents ... shall be reduced by the period during which compensation was paid to him in his lifetime under this Section.... No reduction shall be made for the amount which may have been paid for medical ... services and medicines nor for the expenses of last sickness and burial.... Should the employee die from some other cause than the injury ... the liability for compensation, expenses of last sickness and burial of such employee shall cease.[FN5] When the statute was amended in 1941, the General Assembly eliminated the reduction for prior payments to workers who died from the industrial injury, but continued to deny benefits to workers who died of other causes:

FN5. Ch. 175, § 10 Rev.Code of 1935.

(d) Should the employee die as a result of the injury, no reduction shall be made for the amount which may have been paid for medical ... services and medicines, nor for the expense of last sickness and burial.... Should the employee die from some other cause than the injury ..., the liability for compensation, expense of last sickness, and burial of such employee, shall cease.[FN6]

FN6. 43 Del. Laws Ch. 269, § 8.

The 1964 amendment, which remains in effect today, finally allowed post-death benefits to workers who died from other causes.[FN7]

FN7. 54 Del. Laws Ch. 280, § 3.

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