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Pettyjohn, Richardson; Reps. Briggs King, Dukes,
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DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 133

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE TO IMPOSE A MORATORIUM ON THE
PUBLICATION OF PRIVATE PROPERTY INFORMATION BY THE DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL.

1 WHEREAS, The Department of Natural Resources and Environmental Control engaged in a pattern and practice
2 of entering upon and collecting natural resource data on the private lands within the State of Delaware without the consent
3 of the property owner; and

4 WHEREAS, the pattern and practice of collecting natural resource data without the consent of the property owner
5 occurred consistently since at least 1988; and

6 WHEREAS, the Department retains natural resource data within their databases that was collected without the
7 consent or without documented consent of the owner of the property owner to which the natural resource data relates or
8 concerns; and

9 WHEREAS, the General Assembly desires to protect private property owners within the State of Delaware and
10 restore integrity to and public confidence in the Department.

11 NOW, THEREFORE:

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

13 Section 1. Add new Section to Title 29 of the Delaware Code by making deletions as shown by strikethrough and
14 insertions as shown by underline as follows:

15 § 8031. Moratorium on the Publication of Information Collected from Private Property.

16 (a) The following words terms, and phrases, when used in this section, shall have the meaning ascribed in this
17 subsection:

18 (1) "Department" means the Department of Natural Resources and Environmental Control.

19 (2) "Moratorium Period" means the two-year period following [the effective date of this Act].

20 (3) "Natural Resource Data" means all information collected from real property within the State of
21 Delaware, regardless of source, that relates to or concerns:

22 a. The presence or past presence of rare species.

- 23 b. The potential to support rare species.
- 24 c. The presence of a cultural resource site or proximity to a cultural resource site.
- 25 d. The presence of important wildlife habitat or migration corridors, or potential wildlife habitat
- 26 or migration corridors.
- 27 e. The presence of forest resources.
- 28 f. The presence of wetlands, floodplains, or other lands necessary for the protection of water
- 29 resources.
- 30 g. The presence of unique ecosystems, natural features, or geological features.
- 31 f. The ability to allow natural systems or plants and animals to accommodate or adapt to climate
- 32 change or other large-scale changes in ecosystem processes.
- 33 (b) During the Moratorium Period, the Department shall not publish, display, issue, reproduce, distribute, make
- 34 publically known, disclose, or otherwise make available to anyone outside the Department any Natural Resource Data.
- 35 During the Moratorium Period, Natural Resource Data are not public records and may not be disclosed under Chapter 100,
- 36 Title 29. This subsection shall not prevent the Department from complying with subsection (c) of this section.
- 37 (c) Upon the expiration of the Moratorium Period, the Department shall expunge, without distribution or
- 38 transmission to any other person or entity, any Natural Resource data within its databases unless the Department:
- 39 (1) Discloses the Natural Resource Data, including the date and method of collection, in its
- 40 databases in writing to the owner of the property to which the Natural Resource Data relates or concerns;
- 41 and
- 42 (2) Obtains written consent from the owner of the property to which the Natural Resource Data
- 43 relates or concerns for the Department to retain and use the same.

44 Section 2. This Act takes effect upon enactment.

SYNOPSIS

This Act acknowledges that the Department of Natural Resources and Environmental Control has been collecting natural resource data for years without the consent of the respective property owners. This Act further prohibits the dissemination of natural resource data to any person or entity without first disclosing the date and method of collection along with obtaining the written consent of the respective property owner. In the event written consent cannot be obtained during a two year period following the effective date of this Act, the Department must expunge, without the distribution or transmission to any other person or entity any natural resource data.

Author: Senator Lopez