



SPONSOR: Rep. Longhurst & Sen. Poore

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 85

AN ACT TO AMEND TITLE 7 OF DELAWARE CODE RELATING TO THE FORT DUPONT REDEVELOPMENT
AND PRESERVATION CORPORATION.

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

1 Section 1. Amend Chapter 47, Title 7 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 § 4730 Short title.

4 This subchapter shall be known, and may be cited, as “The Fort DuPont Redevelopment and Preservation Act.”

5 § 4731 Declaration of purpose.

6 The General Assembly declares the following to be the policy and purpose of this subchapter:

7 (1) The Fort DuPont Complex, located along the Delaware River adjacent to Delaware City, is currently
8 underutilized but has enormous potential as a sustainable, mixed-use community;

9 (2) To preserve and protect the historical and recreational amenities within the Fort DuPont Complex and to
10 expand economic opportunities therein, additional capital will be required to improve infrastructure, renovate certain
11 historic structures, and make additional improvements to said Complex;

12 (3) Redevelopment and renovation of the Fort DuPont Complex is both desirable and necessary, provided
13 that:

14 a. The Fort DuPont Complex will remain a public destination, with its historic, natural, and recreational
15 resources maintained for public enjoyment;

16 b. Fort DuPont’s National Register status (where applicable) will be maintained, and historic building and
17 landscape resources will be rehabilitated and reused to the extent possible;

18 c. Redevelopment and infill will be concentrated within several defined areas, and will be complementary
19 to existing historic buildings and landscapes;

20 d. Fort DuPont and Delaware City will grow together as “one city” with strong physical and visual
21 connections and complementary land uses;

e. Diverse land and building uses will be supported at Fort DuPont to achieve a shared vision for a “live-work-learn-play-and-visit” community; and

f. Community engagement will continue to be a key component for ongoing planning for Fort DuPont’s future.

(4) In light of the foregoing, it is in the best interest of the State to enable the creation of an entity to manage, oversee, and implement the redevelopment and preservation of the Fort DuPont Complex in accordance with the Redevelopment Plan and the provisions of this subchapter.

§ 4732 Definitions.

When used in this subchapter:

(1) “Board” means the Board of Directors of the Fort DuPont Redevelopment and Preservation Corporation.

(2) “Corporation” means the Fort DuPont Redevelopment and Preservation Corporation to be established pursuant to § 4733 of this title.

(3) “Department” means the Department of Natural Resources and Environmental Control.

(4) “Fort DuPont Complex” or “Fort DuPont” means such real property, as well as such facilities, personal property, buildings, and fixtures located thereon, owned by the State along the Delaware River bounded by the Chesapeake and Delaware Canal on the south, and a branch canal, currently separating it from Delaware City, on the north, which includes the Fort DuPont State Park, the Governor Bacon Health Center, and surrounding lands, formerly tax parcel numbers 1202300020, 1202300021, 1203000001, and 1203000002.

(5) “Redevelopment plan” means the draft master plan for the redevelopment of the Fort DuPont complex dated October 2013, as may be amended from time to time by the Board, which is intended to guide the redevelopment of the Fort DuPont Complex.

§ 4733 Fort DuPont Redevelopment and Preservation Corporation.

(a) There shall be established within the Department a body corporate and politic, with corporate succession, constituting a public instrumentality of the State, and created for the purpose of exercising essential governmental functions, which is to be known as the Fort DuPont Redevelopment and Preservation Corporation. The Corporation shall be a membership corporation with the Department as the sole member and shall have a certificate of incorporation and bylaws consistent with this subchapter. The Board of Directors is hereby authorized to file a certificate of incorporation with the Secretary of State pursuant to Chapter 1 of Title 8. The certificate of incorporation of the Corporation shall provide for approval of the Delaware General Assembly in order to amend the certificate of incorporation or to effect a merger or dissolution of the Corporation.

(b) The powers and management of the Corporation shall be vested in a board of directors consisting of 15 members. Each director shall have general expertise relevant to the implementation of the Redevelopment Plan, which may include expertise in the fields of land use, historic preservation, economic development (including without limitation real estate, redevelopment, and real estate financing), environmental protection, parks and recreation, and tourism. The Board shall be comprised of the following directors:

- (1) One director appointed by the Governor to serve as Chair;
- (2) The Secretary of the Department of Natural Resources and Environmental Control;
- (3) The Controller General;
- (4) The Secretary of the Department of Health and Social Services;
- (5) The Secretary of State;
- (6) The Director of the Office of Management and Budget;
- (7) The Director of the Office of State Planning Coordination;
- (8) Four directors appointed by the Mayor of the City of Delaware City and approved by City Council of Delaware City, at least 1 of which must be a resident of the Fort DuPont Complex;
- (9) The City Manager of the City of Delaware City; and
- (10) Three directors that shall be elected and appointed by the Board and shall to the extent possible have expertise in 1 or more fields or areas set forth in this subsection.

Directors serving by virtue of their position may appoint a designee to serve in their stead. All appointed Directors shall serve at the pleasure of the appointing authority.

(c) Any vacancy created by the resignation or early departure of a director shall be filled by the appointing authority within 60 days.

(d) A majority of the total number of directors shall constitute a quorum of the Board, and all action by the Board shall require the affirmative vote of a majority of the directors present and voting.

(e) The Board shall adopt bylaws that provide for operating procedures such as election of officers, conflicts of interest, appointment of committees, conduct of meetings, and other matters that will promote the efficient operation of the Board in the performance of its duties under this subchapter.

(f) Pursuant to subsection (a) of this section, the Board of Directors is provided express authority to file an amended and restated certificate of incorporation for the Fort DuPont Redevelopment and preservation Corporation consistent with 82 Del. Laws, c. 72.

§ 4734 Subcommittees.

(a) The Board may create subcommittees as needed to assist the Corporation in fulfilling its purposes and obligations. Each subcommittee shall have a Director of the Board serve as Chair and may include persons that are not directors of the Board. ~~Subcommittees may assist the Board in any of the following ways:~~

~~(1) Developing plans to implement recommendations from the redevelopment plan and tracking ongoing implementation efforts.~~

~~(2) Reviewing and providing recommendations on proposals for the purchase, sale, lease or disposition of lands or buildings.~~

~~(3) Providing guidance on updates to the redevelopment plan upon request by the Board or the executive director.~~

~~(4) Providing recommendations on infrastructure improvement plans, budgets, or any other matters referred by the Board or the executive director.~~

~~(5) Recommending rules, regulations and policies to the Board.~~

~~(6) [Repealed.]~~

~~(b)-(d) [Repealed.]~~

§ 4735 Powers of the Corporation.

(a) The Corporation shall have on July 23, 2014, and upon its creation as provided for herein the powers listed in this section. The Corporation shall be empowered, without limitation and notwithstanding any other laws to:

(1) Adopt bylaws, rules, regulations, and procedures;

(2) Act generally in a planning and development capacity, and in connection therewith, to hold, own, preserve, develop, improve, construct, rent, lease, sell, or otherwise acquire or dispose of any real property, including without limitation any real property comprising the Fort DuPont Complex or any portion thereof transferred to the Corporation;

(3) Employ an executive director and such deputies and assistants as may be necessary or desirable, and to retain by contract such legal counsel, engineers, advisors, and other providers of professional services;

(4) Borrow moneys or accept contributions, grants, or other financial assistance from the federal government, the State, any locality or political subdivision, any agency or instrumentality thereof, or any source, public or private, for or in aid of any project of the Corporation, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases, or other contracts and agreements as may be necessary or desirable;

(5) Have and exercise any and all powers available to a corporation organized pursuant to Chapter 1 of Title 8, the Delaware General Corporation Law;

(6) Take such other lawful actions that are consistent with the purposes of this subchapter as may be necessary or desirable to oversee, manage, and implement the redevelopment and preservation of the Fort DuPont Complex in accordance with the redevelopment plan and the provisions of this subchapter; and

(7) Recover costs for the use of, or the benefit derived from, the services or facilities provided, owned, operated, or financed by the Corporation benefiting property within the Fort DuPont Complex.

(b) The Corporation may only sell or otherwise dispose of any real property for the purpose of the development of single-family residential dwellings without the approval from the Fort DuPont Oversight Committee.

§ 4736 Powers and duties of executive director.

(a) An executive director shall be selected by a majority vote of the Board. The executive director shall exercise such powers and duties relating to the Corporation as may be delegated to him or her by the Board. Compensation of the executive director shall be established by the Board, and the executive director shall serve at the pleasure of the Board.

(b) The executive director or any employee of the Corporation may not receive any gift valued in excess of \$200.00 from the Corporation, the Board, or any member of the Board.

(c) The executive director or any employee of the Corporation may rent or lease property on the Fort Dupont Complex but only for fair market value and with a rental or lease agreement.

(d) The executive director shall provide an annual written report of the Corporations activities to the Chair of the Board and the Chair of the Fort DuPont Oversight Committee.

§ 4737 Initial duties of Corporation.

On or before June 30, 2015, the Corporation shall, at a minimum:

(1) Select and hire a qualified executive director;

(2) Perform or have performed such tests, studies, examinations, and evaluations upon the lands of the Fort DuPont Complex as may be desirable or necessary to permit such property to be transferred to the Corporation and to evaluate economic development opportunities and the historical and other resources to be preserved; and

(3) To develop such feasibility, sales, and marketing plans as may be required to preserve and redevelop the Fort DuPont Complex in accordance with this subchapter.

§ 4738 Continuing duties of Corporation.

(a) The Corporation shall prepare and submit an annual report of its activities during the previous year to the Governor and the Chair and Co-Chair of the Capital Improvement Committee of the General Assembly by January 1 of each year. Such annual report shall include all of the following:

(1) A complete list and explanation of all land it has acquired within the previous 12 months.

142 (2) A complete list and explanation of all development projects that may impact wetlands.

143 (b) The Corporation shall prepare and submit an annual audit which shall be provided to the Governor and the
144 Chair and Co-Chair of the Capital Improvement Committee of the General Assembly by January 1 of each year.

145 § 4739 Administration Costs of Corporation.

146 Beginning January 1, 2022, no administrative costs of the Corporation may be paid by or requested through an
147 appropriation of the General Assembly.

148 § 4740 Fort DuPont Oversight Committee.

149 (a) The Fort DuPont Oversight Committee shall be established to assist and provide oversight to the Board in
150 carrying out its purposes under this subchapter. The Committee shall provide oversight and shall ensure that the
151 Corporation is fulfilling its purposes and obligations.

152 (b) The Fort DuPont Oversight Committee has the authority to do all of the following:

153 (1) Develop plans to implement recommendations from the redevelopment plan and tracking ongoing
154 implementation efforts.

155 (2) Review and provide recommendations and oversight on proposals for the purchase, sale, lease or
156 disposition of lands or buildings.

157 (3) Provide guidance and oversight on updates to the redevelopment plan upon request by the Board or the
158 executive director.

159 (4) Provide recommendations and oversight on infrastructure improvement plans, budgets, or any other
160 matters regarding the Board or the executive director.

161 (5) Ensure the Board's compliance with its rules, regulations, and policies.

162 (6) Request and review reports from the Board and Executive Director concerning the activities of the
163 Corporation, the Board, and the Executive Director.

164 (7) Review the records of the Corporation, including financial records.

165 (8) Review requests of the Corporation to sell or otherwise dispose of real property for the purpose of the
166 development other than for single-family residential dwellings and determine whether to approve such request.

167 (9) Review any request of the Corporation for an appropriation of the General Assembly.

168 (c) The Fort DuPont Oversight Committee shall be comprised of 7 members, none of whom shall be members of
169 the Board or an employee of the Corporation, and shall be appointed as follows:

170 (1) A chair to be appointed by the Governor for a term of 3 years and who shall be eligible for re-appointment.

(2) 4 additional members appointed by the Governor, who, to the extent possible, shall have expertise in 1 or more of the fields of accounting, law, land use, or economic development.

(3) 1 member appointed by the Speaker of the House.

(4) 1 member appointed by the President Pro Tempore of the Senate.

(d) Members of the Oversight Committee shall serve for terms of 3 years each, and shall be eligible for re-appointment.

(e) At least one member of the Oversight Committee shall attend the Fort DuPont Redevelopment and Preservation Corporation Board of Director meetings.

§ 4738 § 4741 Liberal construction of subchapter.

This subchapter, being necessary for the prosperity and welfare of the State and its citizens, shall be liberally construed to effect the purposes hereof.

SYNOPSIS

This Act is to fortify the Declaration of Purpose for the Fort DuPont Complex. This Act requires that at least one of the 4 directors appointed by the Mayor of Delaware City is a resident of the Fort DuPont Complex. This Act prohibits the executive director or any employee of the Corporation any gift from the Corporation, the Board or any member of the Board valued in excess of \$200.00 or from renting or leasing any property on the Fort DuPont Complex except for fair market value and only with a rental or lease agreement. This Act requires the Executive Director to provide an annual written report of the activities of the Corporation to the Chair of the Board and the Chair of the Fort DuPont Oversight Committee. This Act also provides that no administrative costs of the Corporation may be requested or paid by an appropriation of the General Assembly beginning January 1, 2022. This Act imposes continuing duties upon the Corporation to prepare and provide an annual report and audit for the Governor and the Capital Improvement Committee of the General Assembly. Finally, this Act establishes the Fort DuPont Oversight Committee that assists and provides oversight to the Board in carrying out its purposes under the statute. The Oversight Committee authority includes reviewing records, including financial records, of the Corporation, reviewing appropriation requests to the General Assembly, attending Corporation Board meetings, and oversight of redevelopment plans and the purchase, sale, lease or disposition of lands or buildings. The Oversight Committee shall consist of 7 members, 5 of which, including the Chair, are appointed by the Governor, 1 is appointed by the Speaker of the House, and 1 by the President Pro Tempore of the Senate.