SPONSOR: Rep. Longhurst & Sen. Poore

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 310

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE TO ESTABLISH A FORT DUPONT REDEVELOPMENT CORPORATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Title 7, Chapter 47, Delaware Code, by inserting the following new subchapter II as indicated by underline as follows:

§ 4710. Short Title.

This subchapter shall be known, and may be cited, as "The Fort DuPont Redevelopment Act."

§ 4711. Declaration of Purpose.

The General Assembly recognizes that:

(1) The Fort DuPont Complex, located along the Delaware River adjacent to Delaware City, is currently underutilized but has enormous potential as a sustainable, mixed-use community that could be producing revenue, jobs, housing choices, and recreational and other amenities while preserving its historic character and the surrounding environment.

(2) Efforts to develop the Fort DuPont Complex must be integrated with the plans of Delaware City, as well as recreational and tourist opportunities at nearby Fort Delaware State Park on Pea Patch Island, along the Delaware River, and the C&D canal, and the Delaware Bayshore Region.

(3) Efforts to develop the Fort DuPont Complex must also address challenges related to securing economic development opportunities for the site, the condition of buildings within the Complex, flooding and sea-level rise, infrastructure, and the necessity of relocating certain state services now provided at the site by the Department of Natural Resources and Environmental Control, the Department of Health and Social Services, and other state agencies.

(4) Following the model used by other jurisdictions for the redevelopment of closed military bases and installations, the General Assembly deems it desirable and necessary to establish a redevelopment corporation to own, operate, maintain, and implement the redevelopment of the Fort DuPont Complex.

§ 4712. Definitions.

When used in this subchapter:

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(1) “Advisory Council” means the Fort DuPont Redevelopment Corporation Advisory Council.

(2) “Board” means the Board of Trustees of the Fort DuPont Redevelopment Corporation.

(3) “Corporation” means the Fort DuPont Redevelopment Corporation.

(4) “Fort DuPont Complex” means property currently owned by the State of Delaware 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, tax parcel numbers 1202300020, 1202300021, 1202300001, and 1202300002.

(5) “Redevelopment Plan” means the 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.

§ 4713. The Corporation; the Board of Trustees; Membership.

(a) The Corporation is hereby established to accomplish the purposes set forth in The Fort DuPont Redevelopment Act (hereinafter “this subchapter”). The powers and management of the Corporation are vested in a Board of Trustees consisting of 7 voting members appointed as follows: 1 trustee appointed by the Governor (for an initial term of three years), 1 trustee appointed by the Secretary of the Department of Natural Resources and Environmental Control (for an initial term of two years), 1 trustee appointed by the Secretary of the Department of Health and Social Services (for an initial term of two years), 1 trustee appointed by the Director of the Division of Historical and Cultural Affairs (for an initial term of one year), and 3 trustees appointed by the Mayor of the City of Delaware City and approved by City Council of Delaware City (for a term of one, two, and three years respectively). The trustees shall have general expertise relevant to the implementation of the Redevelopment Plan, which may include experience in the fields of historic preservation, parks and recreation, environment, tourism, real estate or land use, finance, business, or education. Following the initial appointment terms, subsequent trustees appointed shall serve 3-year terms. Vacancies in Board membership created by resignations or early departure shall be filled by the appointing person or appointing body that previously selected the trustee that vacated the position for the remainder of the unexpired term. Upon the natural expiration of a term, open trustee positions shall be filled by the appointing person or appointing body that previously elected the trustee to the open position. The trustees of the Board shall be independent, and shall perform their duties as a fiduciary of the Corporation and not as a fiduciary of the appointing person, appointing agency, or Delaware City. Trustees shall exercise their discretion in the performance of their duties in such a manner as will serve the best interests of the Corporation and the resources that have been placed in its control. In this regard, the trustees shall be guided by, and enjoy all the protection available under, the Business Judgment Rule applicable to directors of corporations-under the Delaware General Corporation Law. Trustees appointed may be removed prior to the expiration of their terms only for "cause," in a procedure and in accordance with the

definition of "cause" set forth in the by-laws adopted by the Board. Initial appointments shall be made within sixty (60) days of the adoption of this Act.

(b) The Board so appointed shall enter upon the performance of its duties upon the effective date of this subchapter and shall initially and annually thereafter elect from the Board one of its trustees as chair and another as vice-chair. The Board shall also elect annually a secretary, who shall be a trustee of the Board, and a treasurer, who need not be a trustee of the Board, or a secretary-treasurer, who need not be a trustee of the Board. The chair, or in the chair's absence the vice-chair, shall preside at all meetings of the Board, and in the absence of both the chair and vice-chair, the Board shall elect a chairman pro tempore who shall preside at such meetings. Five trustees shall constitute a quorum of the Board, and all action by the Board shall require the affirmative vote of a majority of the trustees present and voting. Trustees participating by videoconference pursuant to Title 29, Section 10006 of the Delaware Code shall be considered present for any vote. The foregoing notwithstanding, any action to amend or terminate the existing Redevelopment Plan, to adopt a new Redevelopment Plan, or to sell, rent, lease or otherwise dispose of any property owned by the Corporation inconsistent with the Redevelopment Plan shall require the affirmative vote of five or more of the trustees.

(c) On or before January 1, 2020, any proposal to sell, lease, or otherwise dispose of the existing hospital property, (known as the Governor Bacon Health Center, having an address of 246 Kent Avenue, Delaware City, Delaware 19706) in addition to a majority vote of all members of the Board shall also require the affirmative vote of the trustees appointed by the Secretary of the Department of Health and Social Services and the Governor.

(d) The trustees of the Board shall be entitled to reasonable reimbursement for expenses incurred in attendance upon meetings of the Board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Corporation.

(e) Any member of the Board with a personal or private financial interest in the outcome of any matter before the Board shall disqualify himself or herself from any consideration of that matter and shall inform the Chairperson who shall note such interest in the record of the matter.

§ 4714. Advisory Council.

(a) The Advisory Council is hereby established to assist and provide advice to the Board in carrying out its purposes under this subchapter. The Advisory Council shall not be able to bind or require that the Board take any specific course of action, but shall act in a purely advisory capacity. The Advisory Council shall advise the Board with respect to the Redevelopment Plan by:

(1) Developing implementation plans for 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 owned by the Corporation as referred by the Board or the executive director (as defined in §4718 of this subchapter).

(3) Updating of the Redevelopment Plan as necessary as requested 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) Monitoring federal, state and regional issues, identifying the impacts on the Corporation, and recommending actions to the Board and/or the executive director in response to identified issues.

(6) Reviewing and providing recommendations on changes and/or proposals relating to historically significant resources and/or land disturbing activities that impact archaeological resources.

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

(8) Assisting with all other duties assigned by the Board or the executive director.

(b) The Advisory Council shall be composed of 12 members, none of which shall be trustees of the Board, and such members shall be appointed as follows:

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

(2) Seven members who shall be appointed by the Governor and four members appointed by the Mayor of the City of Delaware City and approved by the City Council of Delaware City representing, to the extent possible, the following constituencies: historical preservation interests, parks and recreation, State Office of Management and Budget, environmental interests, tourism interests, business interests, real estate interests, financing, the interests of Delaware City, and the interests of the C&D canal, the Delaware Bayshore, and the Delaware River. These eleven members, who may be State or municipal officials and employees, shall be appointed as follows:

a. 3 members appointed by the Governor shall be appointed for 3-year terms.

b. 2 members appointed by the Governor shall be appointed for an initial 2-year term.

c. 2 members appointed by the Governor shall be appointed for 1-year term.

d. 4 members initially appointed by Delaware City, 2 of which shall serve three-year terms, 1 of which shall serve a two-year term, and 1 shall serve a shall serve a one-year term.

e. Thereafter, appointees shall serve for 3-year terms. The initial appointments to the Advisory Council shall be made within sixty (60) days of the adoption of this Act.

(c) An appointment, pursuant to this section, to replace a member whose position becomes vacant prior to the expiration of the member's term shall be filled only for the remainder of that term by the appointing person or body. Members shall continue to serve after the expiration of their terms until they resign, are reappointed or replaced.

(d) Members of the Advisory Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members in accordance with Corporation rules and regulations. State employees serving on the Advisory Council shall be considered to be working within the scope of their State employment for their time committed to Council duties.

(e) Any member of the Advisory Council with a personal or private financial interest in the outcome of any matter before the Advisory Council shall disclose such interest and disqualify himself or herself from any consideration of that matter.

§ 4715. Additional declaration of policy; powers of the Corporation.

(a) It is the policy of the State that, to the extent possible, the historic, cultural, archaeological, and natural resources of the Fort DuPont Complex be protected in any conveyance or alienation of real property interests by the Corporation. Real property in the Fort DuPont Complex may be maintained as Corporation owned land that is rented or leased, whether by short-term operating/revenue lease or long-term ground lease, to appropriate public, private, or joint venture entities, with such historic, cultural, archaeological, and natural resources being protected in any such lease, to be approved as to form by counsel to the Corporation. If sold as provided in this subchapter, real property interests in the Fort DuPont Complex may only be sold under covenants, historic conservation easements, or other appropriate legal restrictions approved as to form by the Board that protect economic, historic, archaeological, and natural resources.

(b) The Corporation shall constitute a public body politic and corporate of the State of Delaware, but shall not have taxing power. The Corporation's corporate books and financial records shall be deemed public records pursuant to the Freedom of Information Act (Title 29, Chapter 100 of the Delaware Code ("FOIA")), and all regularly scheduled meetings of the Board shall be noticed and shall be open to the public in accordance with FOIA, provided, however, that the Board may deliberate on any matter in executive session upon an affirmative vote of the members present. Meetings of the Advisory Council shall be exempt from FOIA, and proposals for the sale, lease, rent or disposition of property, prior to consideration and vote by the Board, or financial or proprietary information submitted to the Corporation by interested parties seeking to purchase, lease, rent, or otherwise control real property owned by the Corporation shall not be deemed public records under FOIA.

(c) The Corporation shall have the power and duty:

(1) To sue and be sued; to adopt and use a common seal and to alter the same as may be deemed expedient; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Corporation; and to make and from time to time amend and repeal

bylaws, rules, and regulations, not inconsistent with law, to carry into effect the powers and purposes of the Corporation;

(2) To foster and stimulate the economic and other development of the Fort DuPont Complex, including without limitation development for business, employment, housing, commercial, recreational, educational, and other public purposes; to prepare and carry out plans and projects to accomplish such objectives; to provide for the construction, reconstruction, rehabilitation, reuse, improvement, alteration, maintenance, removal, equipping, or repair of any buildings, structures, or land of any kind; to lease or rent to others or to develop, operate, or manage with others in a joint venture or other partnering arrangement, on such terms as it deems proper and which are consistent with the provisions of the Redevelopment Plan governing any lands, dwellings, houses, accommodations, structures, buildings, facilities, or appurtenances embraced within the Fort DuPont Complex; to establish, collect, and revise the rents charged and terms and conditions of occupancy thereof; to terminate any such lease or rental obligation upon the failure of the lessee or renter to comply with any of the obligations thereof; to arrange or contract for the furnishing by any person or agency, public or private, of works, services, privileges, or facilities in connection with any activity in which the Corporation may engage, to acquire, own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, easement, dedication, or otherwise any real or personal property or any interest therein, which purchase, lease, or acquisition may be made for less than fair market value if determined by the Board to be necessary or appropriate to further the purposes of the Corporation; as provided in this subchapter, to sell, lease, exchange, transfer, assign, or pledge any real or personal property or any interest therein, which sale, lease, or other transfer or assignment may be made for less than fair market value (subject to § 4725); as provided in this subchapter, to dedicate, make a gift of, or lease for a nominal amount any real or personal property or any interest therein to the State, Delaware City, or other localities or agencies, public or private, within the Fort DuPont Complex or adjacent thereto, jointly or severally, for public use or benefit, such as, but not limited to, game preserves, playgrounds, park and recreational areas and facilities, hospitals, residential housing units, theaters, clinics, and schools; to acquire, lease, maintain, alter, operate, improve, expand, sell, or otherwise dispose of onsite utility and infrastructure systems or sell any excess service capacity for offsite use; to acquire, lease, construct, maintain, and operate and dispose of tracks, spurs, crossings, terminals, warehouses, and facilities of every kind and description necessary or useful in the transportation and storage of goods, wares, and merchandise; and to insure or provide for the insurance of any real or personal property or operation of the Corporation against any risks or hazards;

(3) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursements, and to purchase bonds at a price not more than the principal amount thereof and accrued interest;

(4) To undertake and carry out examinations, investigations, studies, and analyses of the business, industrial, agricultural, utility, transportation, and other economic development needs, requirements, and potentialities of the Fort DuPont Complex or offsite needs, requirements, and potentialities that directly affect the success of the Corporation at the Fort DuPont Complex, and the manner in which such needs and requirements and potentialities are being met, or should be met, in order to accomplish the purposes for which the Corporation is created; to make use of the facts determined in such research and analyses in its own operation; and to make the results of such studies and analyses available to public bodies and to private individuals, groups, and businesses, except as such information may be exempted;

(5) To administer, develop, and maintain at the Fort DuPont Complex permanent cultural and historical museums and memorials;

(6) To adopt names, flags, seals, and other emblems for use in connection with the Fort DuPont Complex;

(7) To enter into any contracts not otherwise specifically authorized in this subchapter to further the purposes of the Corporation, after approval as to form by the Board;

(8) To establish nonprofit or non-stock corporations as instrumentalities to assist in administering the affairs of the Corporation or to own, control, maintain and improve parkland and open space;

(9) To exercise the power of eminent domain in the manner provided by Delaware law within the Fort DuPont Complex; however, eminent domain may only be used to obtain easements across property adjacent to the Fort DuPont Complex for the provision of water, sewer, electrical, ingress and egress, and other necessary or useful services to further the purposes of the Corporation;

(10) To fix, charge, and collect rents, fees, and charges 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. Such rents, fees, and charges may be charged to and collected by such persons and in such manner as the Corporation may determine from (i) any person contracting for the services or using the Corporation's facilities or (ii) the owners, tenants, or customers of the real estate and improvements that are served by, or benefit from the use of, any such services or facilities, in such manner as shall be authorized by the Corporation in connection with the provision of such services or facilities;

(11) To employ an executive director and such deputies and assistants as may be required;

(12) To hire appraisers, consultants, and contract for professional services;

(13) To change the form of investment of any funds, securities, or other property, real or personal, provided the same are not inconsistent with the terms of the instrument under which the same were acquired, and to sell, grant, or convey any such property;

(14) To cooperate with the federal government, the State, Delaware City, or other nearby localities in the discharge of the Corporation's enumerated powers;

(15) To exercise all or any part or combination of powers granted in this subchapter;

(16) To do any and all other acts and things that may be reasonably necessary and convenient to carry out the Corporation's purposes and powers;

(17) To adopt by the trustees of the Board, and from time to time to amend and repeal regulations concerning the use and visitation of properties under the control of the Corporation to protect or secure such properties and the public enjoyment thereof;

(18) To establish rules and regulations on property owned by the Corporation;

(19) To establish procurement rules and other similar policies;

(20) To assess maintenance fees, capital improvement/infrastructure fees, impact fees, open space preservation fees, and similar fees in perpetuity on any and all lands transferred to the Corporation by this Act, regardless of future ownership of such lands;

(21) Charge fees to person or entity owning, renting, or leasing land within the Fort DuPont Complex for a pro-rata share of trash collection, snow removal and other similar services;

(22) To establish corporations or other entities as may be required to preserve the tax exempt status of the Corporation; and

(23) To provide that any person who knowingly violates a regulation of the Corporation may be requested by an agent or employee of the Corporation to leave the property and upon the failure of such person so to do shall be guilty of a trespass.

(d) The specific enumeration of any power herein shall not act as a limitation on the power and authority of the Corporation to do all acts and things necessary to carry out the purposes of the Corporation and the redevelopment of the Fort DuPont Complex.

(e) In the exercise of its powers, the Corporation shall at all times comply with the laws and regulations of the State of Delaware and of the City of Delaware City, including ordinances, regulations, and laws pertaining to and governing flood mitigation.

§ 4716. Corporation may borrow money, accept contributions, etc.

In addition to the powers conferred upon the Corporation by other provisions of this subchapter, the Corporation shall have the power:

(1) To 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 agreements as may be required, convenient, or desirable;

(2) The Corporation shall be considered a public body corporate and shall be eligible for all grants the same as any other local government or political subdivision. Funds from any source available to the Corporation may be used to meet the matching requirement of any grants, and the Corporation shall also be eligible for any and all grants or funds available to Park Districts established pursuant to Title 9, Chapter 7 of the Delaware Code;

(3) To receive and expend gifts, grants, and donations from whatever source derived for the purposes of the Corporation; and

(4) To the extent that the City of Delaware City does not or cannot provide utility or similar public services, to enter into agreements with any public or private utility for the provisions of services at the Fort DuPont Complex. In the event that Delaware City does not or cannot provide the services sought, Delaware City shall promptly provide consent for the agreement and such consent shall not be unreasonably withheld.

§ 4717. Corporation empowered to issue bonds; additional security; liability thereon.

(a) The Corporation shall have the power to authorize the issuance of bonds and notes of the Corporation to finance the cost of any object, program or purpose authorized by this subchapter for the implementation and performance of functions, programs and purposes as specified in this subchapter and shall have the bonding powers, authority, and credit provided to the State in Title 29, Chapter 74 of the Delaware Code; provided, however, that the Corporation shall not have authority to create or to authorize the creating of any bonded indebtedness for any of the following purposes: The payment of any operating expenses; the payment of any judgment resulting from the failure of the Corporation to pay any item of operating expense; or the payment for any equipment or improvements of a normal life of less than 3 years.

(b) The powers conferred by this subchapter shall be in addition to and not in substitution for or in limitation of the powers conferred by any other law, including Title 29, Chapter 74 of the Delaware Code. Bonds and notes may be issued under this subchapter for any object or purpose for which the Corporation is by this subchapter or any other law authorized to raise or appropriate or expend money notwithstanding that any other law may provide for the issuance of bonds or notes for the same or like purposes and without regard to the requirements, restrictions or other provisions contained in any other law. Bonds and notes may be issued under this subchapter notwithstanding any debt or other limitation prescribed by any other law, and the mode and manner of procedure for the issuance of bonds and notes and authorizing issuance of the bonds or notes under this subchapter need not conform to the provisions of any other law.

(c) Bonds and notes issued pursuant to this subchapter shall be authorized and approved by not less than five of the seven the trustees. Each such approval for bonds shall state in brief and general terms the objects or purposes for which the debt is to be incurred and the maximum aggregate principal amount of debt to be incurred for each such object or purpose. Such authorization shall specify, or may delegate authority to the executive director to determine, with respect to any bonds

and notes; their date or dates; their maturity; the security therefor, if any, including a pledge of the Corporation's full faith and credit; provisions for either serial or term bonds; sinking fund or other reserve fund requirements, if any; provisions for redemption prior to maturity, if any, with or without premium; the interest rate or rates and any limitations with respect thereto or the manner of their determination; the times and place or places within or without this State for the payment of principal and interest; the method of execution; the form; provisions for the consolidation of debt authorized for several objects and purposes pursuant to a single consolidated issue; provisions for the receipt and deposit or investment of any good faith deposit; provisions for the public or private sale of the debt instruments; and such other terms and conditions as the Board may determine to be in the best interest of the Corporation. Debt incurred by the Corporation pursuant to this subchapter may be represented by uncertificated obligations of the Corporation which may be applicable to bonds and notes which are permitted to be issued under this subchapter, and the Board may determine, or it may delegate authority to the executive director to determine, all procedures appropriate to the establishment of a system of issuing uncertificated debt.

(d) The Corporation may pledge the full faith and credit of the Corporation to secure the payment of the principal, interest and premium, if any, on any debt incurred pursuant to this subchapter and/or may pledge any other security therefor.

(e) The outstanding general obligation bonded indebtedness of the Corporation secured by the full faith and credit of the Corporation may not exceed 30 percent of the assessed valuation of all real property owned by the Corporation at the time of the bond issuance.

(f) The proceeds from the sale of bonds and notes issued under this subchapter shall be used only for the object or purpose or objects or purposes specified in this subchapter. If for any reason any part of such proceeds are not applied to or are not necessary for such purposes, such unexpended part of such proceeds shall be applied to the payment of the principal of or interest on such bonds or notes no later than the earliest date on which such bonds or notes may be called for redemption without premium.

(g) All bonds, notes or other evidences of indebtedness issued pursuant to this subchapter shall recite that they are issued for a purpose or purposes as specified in Board's approval resolution and that they are issued pursuant to the terms of the laws of this State. Upon the sale and delivery of any such bonds, notes or other evidences of indebtedness against payment, such recitals shall be conclusive as to the right, power and authority of the Corporation to issue the same and of the legality, validity and enforceability of the obligation of the Corporation to pay principal of and interest on the same. All bonds, notes and other evidences of indebtedness of the Corporation are hereby declared to have all the qualities and incidents of negotiable instruments under the Commercial Code of this State.

(h) Neither the trustees of the Corporation, members of the Advisory Council or any employee or officer of the Corporation nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

§ 4718. Powers and duties of executive director.

An executive director shall be selected by a majority vote of the entire 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, including powers and duties involving the exercise of discretion. The executive director shall also exercise and perform such other powers and duties as may be lawfully delegated to him or her and such powers and duties as may be conferred or imposed upon him or her by law. Compensation of the executive director shall be established by the Board, and the executive director shall serve at the pleasure of the Board. The executive director may execute contracts, instruments and other documents on behalf of the Corporation as authorized by the Board.

§ 4719. Legal services.

For such legal services as it may require, the Corporation may employ its own counsel and legal staff or make use of legal services made available to it by any public body, and may also independently employ legal counsel that represents the State of Delaware and/or the City of Delaware City.

§ 4720. Exemption from taxation.

The bonds or other securities issued by the Corporation, the interest thereon, and all real and personal property and any interest therein of the Corporation, and all income derived therefrom by the Corporation, are free from taxation by the State, or by any political subdivision thereof while owned or controlled by the Corporation. Upon sale or disposition of any property to a non-governmental agency, transfer and other taxes shall be due, which shall be paid by the purchaser of said land to the appropriate governmental authority.

§ 4721. Annexation.

Within twelve (12) months of the adoption of this Act, the City of Delaware City may amend its Comprehensive Plan to allow for the mixed use redevelopment of the Fort DuPont Complex by the Corporation. If the City of Delaware City amends its Comprehensive Plan to include the lands of the Fort DuPont Complex for the anticipated redevelopment, and certification of the revised Comprehensive Plan is received as contemplated by Title 29, Chapter 91 of the Delaware Code within twelve (12) months of the adoption of this Act, and annexation is thereafter approved pursuant to the voting procedure set forth in the Section 1-03 of the Charter of the City of Delaware City, the lands of the Fort DuPont Complex shall be deemed automatically annexed into the City of Delaware City notwithstanding any provision of State or local law to the contrary, including but not limited to, Title 22, Section 101 of the Delaware Code, or annexation provisions contained within the Code of the City of Delaware City. Upon annexation, the Fort DuPont Complex shall be subject to all laws, rules, and regulations established by the City of Delaware City.

§ 4722. Initial Duties of Board.

(a) On or before June 30, 2015, the Board shall, at a minimum:

(1) Cause a certificate of incorporation of the Corporation, in an appropriate form approved by the Board in accordance with this Act, to be filed to initiate the Corporation;

(2) Draft and adopt by-laws for the Corporation, which shall contain provisions addressing conflicts of interest;

(3) Establish accounts with at least one qualified financial institution doing business in the State of Delaware;

(4) Perform title and other necessary investigations to allow for the lands in the Fort DuPont Complex to be transferred to the Corporation;

(5) Select and hire a qualified executive director for the Corporation to assist the Board and the Advisory Council;

(6) Perform an initial assessment of the grounds, buildings, infrastructure, and plans for the Fort DuPont Complex which shall evaluate economic development opportunities and the historical and other resources to be preserved;

(7) Develop operating and capital budgets;

(8) Employ one or more law firms and accounting firms to collectively represent the Corporation, the Board, and the Advisory Council;

(9) Begin to develop marketing plans and sales plans, and evaluate the feasibility of the Redevelopment Plan for Fort DuPont;

(10) Assign duties, responsibilities, and proposals to the Advisory Council;

(11) Initiate coordination efforts with Federal, State, and local stakeholders, including, but not limited to, the Department of Natural Resources and Environmental Control, the Department of Health and Social Services, the Office of Management and Budget, New Castle County, and the City of Delaware City; and

(12) Develop proposals for the leasing, renting, and/or continued use of the current facilities at Fort DuPont Complex with State departments or entities, including Department of Natural Resources and Environmental Control and the Department of Health and Human Services.

§4723. Transfer of Ownership.

Within ninety (90) days of the later of an affirmative vote of the Board following the completion of the initial duties outlined in § 4722 or the annexation of the property by the City of Delaware City outlined in § 4721, the State shall transfer ownership of the Fort DuPont Complex to the Corporation.

§ 4724. Implementation of Redevelopment Plan.

(a) Upon transfer of title of the land to the Corporation, the Corporation shall:

(1) Implement the Redevelopment Plan, as may be amended from time to time by the Board;

(2) Improve the grounds, buildings, infrastructure of the Fort DuPont Complex;

(3) Evaluate and pursue economic development opportunities for the Fort DuPont Complex;

(4) Preserve, to the extent possible, the historical character of the property and selected buildings and structures;

(5) Manage, maintain, sell, lease, rent, or otherwise dispose of the real property as deemed necessary and proper by the Board;

(6) Evaluate and implement proposals for improvement of the land owned by the Corporation;

(7) Annually adopt an operating budget and a capital improvement budget;

(8) Dedicate and maintain parkland, open space, and other areas for preservation from development as a component of the Redevelopment Plan;

(9) Develop rules and regulations governing the use, sale, lease, rent and other disposition of portions of the Fort DuPont Complex as well as rules for competitive bids and the procurement of goods and services; and

(10) Carry out the purposes and requirements of this subchapter, subject to the requirements of State law and the Delaware City Code.

(b) Upon adoption by the Board of rules for the procurement of goods and services, and rules governing the sale, lease, rent and disposition of property, the Corporation shall be exempt from all procurement, bidding, and other similar laws of the State of Delaware.

§ 4725. Rents, fees, and charges; disposition of revenues.

(a) Upon transfer of title of the land to the Corporation, the rents, fees, and charges established by the Corporation for the use of its property, projects, and facilities and for any other service furnished or provided by the Corporation shall be fixed so that they, together with other revenues of the Corporation, shall provide at least sufficient funds to pay the cost of maintaining, repairing, and operating the Corporation; its property, open space, projects, and facilities; and the principal and interest of any bonds issued by the Corporation or other debts contracted as the same shall become due and payable. A reserve may be accumulated and maintained out of the revenues of the Corporation for infrastructure improvements, extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust indenture securing such bonds. Subject to such provisions and restrictions as may be set forth in the resolution or in the trust indenture authorizing or securing any of the bonds or other obligations issued hereunder, the Corporation has exclusive control of the revenue derived from the operation of the Corporation, the sale or lease of property, and the right to use such revenues in the exercise of its powers and duties set forth in this subchapter. No person, entity, firm, association, or corporation shall receive any profit or dividend from the revenues, earnings, or other funds or assets of such Corporation other than for debts contracted, for services rendered, for materials and supplies furnished, and for other value actually received by the Corporation.

(b) The accounts of the Corporation shall be audited annually an independent auditor selected by the Board. If no independent auditor is selected, the audit shall be performed by the State Auditor or the State Auditor's legally authorized

representative, and the cost of such audit shall be borne by the Corporation. Copies of the annual audit shall be distributed to the Governor and to the Chairpersons of the House Committee on Appropriations and the Senate Committee on Finance.

§ 4726. Continuation of Corporation.

(a) Upon transfer of title of the land to the Corporation, the Corporation shall be required to maintain, improve, and be responsible for the overall management, upkeep, rehabilitation, sale, development and redevelopment of the Fort DuPont Complex, provided, however that absent a contract or agreement with the Corporation, the Department of Health and Human Services, the Office of Management and Budget, and the Department of Natural Resources and Environmental Control shall be responsible for the maintenance, repair, and upkeep of the lands and structures currently under the dominion and control of these Departments and Offices until at least January 1, 2020.

(b) The Corporation shall continue in perpetuity, and funds held by the Corporation following the sale, disposition, lease or other use of the lands owned by the Corporation or other funds obtained by the Corporation shall be used to maintain, upkeep, update, and beautify historic structures, open spaces, parkland, infrastructure, and to otherwise improve the lands in a manner deemed necessary and proper by the Board.

(c) The Corporation, once formed, may be dissolved only by vote of a two-thirds majority vote of the General Assembly. In the event of a vote of dissolution by the General Assembly, title to any property then owned by the Corporation shall automatically revert to the State of Delaware, and all debts, obligations, agreements, leases, and any funds held by the Corporation shall become the property and obligation of the State of Delaware.

§ 4727. Powers conferred additional and supplemental; severability; liberal construction.

The powers conferred by this subchapter shall be in addition and supplemental to the powers conferred by any other law. The powers granted and the duties imposed in this subchapter shall be construed to be independent and severable. If any one or more sections, subsections, sentences, or parts of any of this subchapter shall be adjudged unconstitutional or invalid, such adjudication shall not affect, impair, or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions held unconstitutional or invalid. This subchapter shall be liberally construed to effect the purposes hereof.

§ 4728. Sovereign immunity and tort liability.

No provisions of this subchapter nor any act of the Corporation, including the procurement of insurance or self-insurance, shall be deemed a waiver of any sovereign immunity to which the Corporation, the Board, the Advisory Council, or their trustees, members, directors, officers, employees, or agents are otherwise entitled. The Corporation, the Board, the Advisory Council, members thereof, and their employees, legal counsel and agents shall have the same immunity provided to municipalities under the County and Municipal Tort Claims Act, Title 10, Section 4010 et seq.

Section 2. Appropriations in the Bond and Capital Improvement Act for the redevelopment of strategic sites, including the Fort DuPont Complex, may be utilized for the implementation of this Act.

SYNOPSIS

This bill creates the Fort DuPont Redevelopment Corporation, along with a board of trustees and an advisory council, to oversee the economic development of the Fort DuPont Complex near Delaware City while preserving the historical and environmental interests of the Complex and surrounding areas. This Act will allow the City of Delaware City to annex the land, will allow the Corporation to take title to the land to manage redevelopment, and will provide for the implementation of the pending redevelopment plan. The Corporation is required to comply with all laws of the State of Delaware and the City of Delaware City in the exercise of its powers.