SPONSOR: Rep. Longhurst & Sen. Poore

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1

FOR

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:

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

CHAPTER 47. STATE PARKS

Subchapter II. ~~Recreation Assistance Fund~~ The Fort DuPont Redevelopment and Preservation Act

~~§§ 4730 -4732. Establishment of fund; financial assistance to approved projects and programs; applications; Recreation Advisory Council.~~

~~Repealed by 67 Del. Laws, c. 430, § 1, effective July 23, 1990.;~~

§ 4730. Short Title.

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

§ 4731. Declaration of purpose.

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

(a) 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;

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

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

(1) The Fort DuPont Complex will remain a public destination, with its historic, natural, and recreational resources maintained for public enjoyment;

(2) Fort DuPont's National Register status (where applicable) will be maintained, and historic building and landscape resources will be rehabilitated and reused to the extent possible;

(3) Redevelopment and infill will be concentrated within several defined areas, and will be complementary to existing historic buildings and landscapes;

(4) Fort DuPont and Delaware City will grow together as "one City" with strong physical and visual connections and complementary land uses;

(5) 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

(6) Community engagement will continue to be a key component for ongoing planning for Fort DuPont's future.

(d) 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 Act.

§ 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) "Council" means the Advisory Council of the Fort DuPont Redevelopment and Preservation Corporation.

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

(5) "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 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, 1203000001, and 1203000002.

(6) "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 Secretary of the Department is hereby authorized to file a certificate of incorporation with the Secretary of State pursuant to Title 8, Chapter 1 of the Delaware Code. 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 9 members. Each member 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 members:

(1) One director appointed by the Governor to serve as Chair, who shall serve at the pleasure of the Governor.

(2) (A) The Secretary of the Department of Natural Resources and Environmental Control;

(B) the Controller General;

(C) the Secretary of the Department of Health and Social Services; and

(D) the Secretary of State.

Each Secretary or Controller General serving as a director of the Corporation may appoint a designee to serve in his or her stead.

(3) Four directors appointed by the Mayor of the City of Delaware City and approved by City Council of Delaware City (2 for an initial term of 1 year, with the remaining directors serving initial terms of 2 years and 3 years, respectively), who shall be appointed within 30 days after the filing of the certificate of incorporation. Following the initial appointment terms, subsequent directors appointed hereunder shall serve 3-year terms.

(c) All vacancies in Board membership shall be filled by the appointing authority that previously appointed such member. Any vacancy created by the resignation or early departure of a director shall be filled by the appointing authority for the remainder of the unexpired term.

(d) Five 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.

§ 4734. Advisory Council.

(a) The Council of the Corporation shall be established to assist and provide advice to the Board in carrying out its purposes under this subchapter. The Council shall act in a purely advisory capacity, and shall assist the Corporation in fulfilling its purposes and obligations hereunder as directed by the Board or the executive director. Such assistance may include but not be limited to:

(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;

(6) Recommending rules, regulations and policies to the Board; and

(7) Such other responsibilities and powers consistent with the Council's role as an advisory body as shall be determined from time to time.

(b) The Advisory Council shall be comprised of 13 members, none of whom shall be members of the Board of Directors, 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) Eight additional members appointed by the Governor who, to the extent possible, shall have expertise in one or more of the fields or areas set forth in § 4733(b) of this title;

(3) Four members appointed by the Mayor of the City of Delaware City and approved by the City Council of Delaware City. Appointments by Delaware City shall represent the interests of Delaware City and the Delaware Bayshore.

(c) Members of the Advisory Council shall serve for terms of 3 years each; provided, however, that the terms of the initial members shall be staggered as follows:

(1) Three initial members appointed by the Governor and one initial member appointed by Delaware City shall serve terms of 3 years each;

(2) Three initial members appointed by the Governor and one initial member appointed by Delaware City shall serve terms of 2 years each; and

(3) The remaining initial members shall serve terms of 1 year each.

(d) Each appointing authority shall appoint members of the Advisory Council no later than 60 days following the date of the filing of the certificate of incorporation of the Corporation.

§ 4735. Powers of the Corporation.

The Corporation shall have upon enactment of this subchapter 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:

(a) To adopt bylaws, rules, regulations, and procedures;

(b) To 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;

(c) To 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;

(d) 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 other contracts and agreements as may be necessary or desirable;

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

(f) To take such other lawful actions that are consistent with the purposes of this Act 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 Act; and

(g) To 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.

§ 4736. Powers and duties of executive director.

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.

§ 4737. Initial Duties of Corporation.

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

(a) Select and hire a qualified executive director;

(b) 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

(c) 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. 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.

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

SYNOPSIS

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 preserves the historical and environmental interests of the Complex and surrounding areas. This Act authorizes the creation of the Fort DuPont Redevelopment and Preservation Corporation, an entity that will spearhead the renovation, redevelopment, and preservation of the Complex.

The Corporation's 9-member board of directors will include 5 representatives from state government (or their designees) and 4 members appointed by the City of Delaware City. The Corporation will be assisted by a 13-member advisory council comprised in part of individuals having expertise in the land use, historic preservation, economic development, environmental protection, parks and recreation, and tourism.