



# **Sussex County Council Public/Media Packet**

**MEETING:  
June 25, 2013**

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**Sussex County Council  
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MICHAEL H. VINCENT, PRESIDENT  
SAMUEL R. WILSON JR., VICE PRESIDENT  
GEORGE B. COLE  
JOAN R. DEEVER  
VANCE PHILLIPS



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# Sussex County Council

## A G E N D A

June 25, 2013

10:00 A.M.

### Call to Order

### Approval of Agenda

### Approval of Minutes

### Reading of Correspondence

### Todd Lawson, County Administrator

1. Discussion and Consideration of a County Special Event Policy
2. Discussion and Possible Introduction of a Proposed Ordinance Relating to Zoning for a Special Event
3. Administrator's Report

### Hal Godwin, Deputy County Administrator

1. Legislative Update

### John Ashman, Director of Utility Planning

1. EMS #106 Long Neck Station Project 12-19

#### A. Substantial Completion

### Jim Hickin, Sussex County Airport Manager

1. Extend Runway 4-22, Package II

#### A. Bid Award



**2. Urban Engineers**

**A. Extend Runway 4-22, Package II – Construction Phase Services**

**Brad Hawkes, Director of Utility Planning**

**1. Pump Station 30 Forcemain**

**A. Substantial Completion**

**2. Renovations to the Sussex County Annex Building**

**A. Balancing Change Order and Substantial Completion**

**Loran George, District Manager SCRWF**

**1. Fine Bar Screen & Transpactor Shaftless Spiral Conveyor Compactor**

**A. Bid Award**

**Juel Gibbons, Project Manager**

**1. Pump Station 24 Improvements**

**A. Bid Award**

**2. Inland Bays Regional Wastewater Facility, Phase 2B Expansion**

**A. Bid Award**

**Julie Cooper, Project Engineer**

**1. Pine Street Parking Facility**

**A. Bid Award**

**Old Business**

**Conditional Use No. 1962  
Chesapeake AgriSoil, LLC**

**Grant Requests**

- 1. March of Dimes Delaware for “The Farmer and the Chef South” event**
- 2. Laurel High School Varsity Softball Team for state championship jackets**
- 3. River Soccer Club Travel Team for tournament expenses**

**Introduction of Proposed Zoning Ordinances**

**Any Additional Business Brought Before Council**

**1:30 p.m. Public Hearing**

**Change of Zone No. 1730 filed on behalf of Two Farms, Inc.**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.4596 ACRES, MORE OR LESS” (land lying at the southeast corner of U.S. Route 13 and Route 24); (Tax Map I.D. 332-1.00-100.00 & 101.00)**

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Sussex County Council meetings can be monitored on the internet at [www.sussexcountypa.gov](http://www.sussexcountypa.gov).

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on June 18, 2013 at 5:10 p.m., and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the Meeting.

Agenda items listed may be considered out of sequence.

###

TODD F. LAWSON  
COUNTY ADMINISTRATOR

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tlawson@sussexcountyde.gov



**Sussex County**  
DELAWARE  
sussexcountyde.gov

**Memorandum**

TO: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Samuel R. Wilson, Jr., Vice President  
The Honorable George B. Cole  
The Honorable Joan R. Deaver  
The Honorable Vance C. Phillips

FROM: Todd F. Lawson  
County Administrator

RE: **SPECIAL EVENT POLICY**

DATE: June 20, 2013

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During Tuesday's Council meeting, we are scheduled to discuss and approve a County Special Event Policy. The County's Public Safety Directors, including EMS Director Bob Stuart and EOC Director Joe Thomas, and staff will be providing an overview of the proposal.

Throughout the year, we are asked to provide public safety coverage to events in the County. The events range from community sponsored festivals like Bridgeville's Apple-Scrapple to sporting events like the Bethany Beach Triathlon. The coverage may include EMS Paramedics, EOC Dispatchers, the Mobile Command Unit, and various other forms of public safety equipment. When it is feasible, we provide this coverage using staff previously scheduled to work. Otherwise, we are forced to pay staff overtime to work the events. At this time, the County does not get reimbursed for any services we provide.

In an effort to better administer our coverage – and in some cases – to seek reimbursement for our services, we feel an official policy governing our public safety coverage is warranted. A copy of the draft policy is attached for your review.

Furthermore, through these efforts it has become apparent that the County Code requiring a Conditional Use for "amusement-like" events needs to be amended. First, the Code needs to include an improved definition of special events that involve large numbers of attendees, also known as mass gatherings. Second, the Code needs to reference the Special Event Policy to ensure the Policy is supported by the Code. A copy of the proposed ordinance is also attached.



**Memo to Council – Special Event Policy**

June 20, 2013

Page 2 of 2.

Should you have any questions on any of these initiatives, please don't hesitate to contact me.

TFL/sww

**Attachments**

pc: Mr. Robert A. Stuart  
Mr. Robert W. Murray  
Mr. Eric L. Houvinen  
Mr. Joseph L. Thomas  
Mr. Lawrence B. Lank

**SUSSEX COUNTY PUBLIC SAFETY SERVICES  
SPECIAL EVENT  
ADMINISTRATIVE PROCEDURES**

**AP #: 39**

**SUBJECT: Special Event Administrative Procedure**

**ORIGINATED: 2/25/2011**

**REVISION: Draft original**

**PURPOSE:** To ensure an appropriate level of special event coverage by the Sussex County Public Safety Services – Emergency Medical Services (SCEMS) and Emergency Operations Center (EOC) – while fulfilling the obligation to provide public safety services to the public.

**PROCEDURE:**

Definition: A special event is an occurrence that requires public safety services coverage that is determined to exceed the normal daily activities in a particular coverage area. Special events can be planned or unplanned. Planned events can be either for-profit or non-profit.

1. Notification of Event - It is the responsibility of the Event Coordinator to notify the SCEMS Special Operations Coordinator of a planned event, at least 30 days prior to the event.

It is the responsibility of the Event Coordinator to request a Special Event Team at least 30 days prior to the event. Events requested with less than 30 days' notice may not be filled due to the short notice.

2. SCEMS Responsibilities
  - a. The Special Operations Coordinator will discuss the request with the Event Coordinator and complete the Special Events Application Form.

b. The Special Operations Coordinator in conjunction with the EOC Director will:

- 1) Determine if the event requires additional SCEMS and/or EOC coverage beyond the on duty personnel.
- 2) Determine the appropriate level of staffing and equipment associated with the coverage.

a) The Special Operations Coordinator will make the determination based on the following:

- (1) Type of event
- (2) Anticipated attendance
- (3) Duration of the event
- (4) Event location
- (5) Weather
- (6) Available Resources (e.g. vehicle, equipment, staffing)
- (7) Proximity to the hospital
- (8) History of previous events
- (9) Special request of event planner

3) Determine the appropriate costs associated with the coverage.

a) The Special Operations Coordinator will make the determination as follows:

i) Event Purpose

(1) Unpaid Coverage will generally apply when:

- (a) There is no charge for the public to attend the event; and
- (b) The event is organized by a non-profit organization (defined by the IRS); or
- (c) The event is considered a community event or a public education event.

(2) Paid Coverage will generally apply when:

- (a) There is a charge for the public to attend the event; or
- (b) The event is organized by a for-profit organization; or
- (c) Any resulting profit is not going back into the community



or the community organization; or

(d) Total anticipated attendance for the entire event is greater than 25,000.

- c. The Special Operations Coordinator will advise the Event Coordinator the recommended staffing and associated costs based on the needs assessment.
- d. The Special Operation Coordinator and EOC Director (or designee) will determine if a Dispatcher and/or Mobile Command Center coverage is necessary.
- e. The Special Operation Coordinator will determine if the special event coverage requires a contract or memorandum of understanding (MOU).
- f. The Special Operations Coordinator will create a contract and/or MOU and ensure that it is signed by the Event Planner. This should generally be completed 14 days prior to the event.
- g. Once the contract and/or MOU is signed the Special Operations Coordinator will secure staffing.
- h. The Special Operation Coordinator will notify the jurisdictional fire company and ambulance company (if separate) of the special event. The jurisdictional Fire Chief and, if separate, the jurisdictional EMS Captain will be encouraged to contact the Event Coordinator to discuss the appropriate level of fire/ambulance coverage, any associated costs, and any other special requests.

### 3. Charges for the event

- a. SCEMS will charge hourly for each event. The hourly rate is \$60.00 per hour per paramedic. Charges are applied from the time the Special Events Team reports to the station until the time they return to the station. Special Events Team will arrive on-site one-half hour prior to the event and depart one-half hour post event.
- b. EOC will charge hourly for each event for dispatcher and mobile command unit coverage. The hourly rate is \$30.00 per hour per dispatcher and

\$145.00 per hour for the mobile command unit. Charges are applied from the time the command unit is activated on-site until it is de-activated.

- c. There is a two hour minimum for each person for all events.
  - d. In the event that the Special Event Team is unable to attend then all fees will be returned or cancelled. If the event is cancelled prior to the Special Event Team arrival, all fees will be returned or cancelled.
  - e. In the event that our personnel must leave the event or arrive late, then the Special Operations Coordinator will work with the Special Event Team and Event Coordinator to determine the billable hours.
4. Post-Event - After the event the Special Operations Coordinator will review paperwork submitted by the Special Events Team and complete a final bill. This final bill will be sent to the Event Coordinator within 15 days of the event and due within 30 days of receipt.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLES IV, VI, X, XI, XIA AND XII OF THE CODE OF SUSSEX COUNTY BY DELETING THE CONDITIONAL USE LANGUAGE FOR CIRCUS AND CARNIVAL GROUNDS, AMUSEMENT PARK OR MIDWAYS, INSERTING A BROADER DEFINITION OF SPECIAL EVENTS TO BE DEFINED AS CONDITIONAL USES IN AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS, GR GENERAL RESIDENTIAL DISTRICT, B-1 NEIGHBORHOOD BUSINESS DISTRICT, C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND M MARINE DISTRICT, AND TO SUBJECT ALL SPECIAL EVENTS, REGARDLESS OF DURATION, TO THE SUSSEX COUNTY SPECIAL EVENT POLICY.

WHEREAS, Sussex County Code, Chapter 115, Article IV, § 115-22, Article VI, § 115-39, Article X, § 115-71, Article XI, § 115-79, Article XIA, § 115-83.5 and Article XII, § 115-87 each currently includes as a conditional use, "Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three (3) days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application;" and

WHEREAS, Sussex County desires to broaden the definition in each of the foregoing provisions to create a more comprehensive definition of what constitutes a Special Event that will be deemed a conditional use in the aforesaid districts and subject all Special Events to the Sussex County Special Event Policy, regardless of duration; and

WHEREAS, Sussex County desires to delete in its entirety the current language regarding "Circus or carnival grounds, amusement park or midways..." found in Sussex County Code, Chapter 115, Article IV, § 115-22, Article VI, § 115-39, Article X, § 115-71, Article XI, § 115-79, Article

XIA, § 115-83.5 and Article XII, § 115-87 and insert new language in each provision as hereinafter set forth.

NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. Amend Sussex County Code, Chapter 115, Article IV, § 115-22, Conditional uses, in AR-1 and AR-2 Districts, by deleting the current language in its entirety and as shown in brackets below:

[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]

Section 2. Amend Sussex County Code, Chapter 115, Article IV, § 115-22, Conditional uses, in AR-1 and AR-2 Districts by inserting the underlined language therein as follows:

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

Section 3. Amend Sussex County Code, Chapter 115, Article VI, § 115-39, Conditional uses, in GR General Residential Districts, by deleting the current language in its entirety and as shown in brackets below:

[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]

Section 4. Amend Sussex County Code, Chapter 115, Article VI, § 115-39, Conditional uses, in GR General Residential Districts by inserting the underlined language therein as follows:

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

Section 5. Amend Sussex County Code, Chapter 115, Article X, § 115-71, Conditional uses, in B-1 Neighborhood Business Districts by deleting the current language in its entirety and as shown in brackets below:

[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]

Section 6. Amend Sussex County Code, Chapter 115, Article X, § 115-71, Conditional uses, in B-1 Neighborhood Business Districts by inserting the underlined language therein as follows:

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

**Section 7. Amend Sussex County Code, Chapter 115, Article XI, § 115-79, Conditional uses, in C-1 General Commercial Districts by deleting the current language in its entirety and as shown in brackets below**

**[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]**

**Section 8. Amend Sussex County Code, Chapter 115, Article XI, § 115-79, Conditional uses, in C-1 General Commercial Districts by inserting the underlined language therein as follows:**

**“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”**

**Section 9. Amend Sussex County Code, Chapter 115, Article XIA, § 115-83.5, Conditional uses, in CR-1 Commercial Residential Districts by deleting the current language in its entirety and as shown in brackets below:**

**[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]**

**Section 10. Amend Sussex County Code, Chapter 115, Article XIA, § 115-83.5, Conditional uses, in CR-1 Commercial Residential Districts by inserting the underlined language therein as follows:**

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

Section 11. Amend Sussex County Code, Chapter 115, Article XII, § 115-87, Conditional uses, in M Marine Districts by deleting the current language in its entirety and as shown in brackets below

[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]

Section 12. Amend Sussex County Code, Chapter 115, Article XII, § 115-87, Conditional uses, in M Marine Districts by inserting the underlined language therein as follows:

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

Section 13. Effective Date. This Ordinance shall become effective on \_\_\_\_\_, 2013.

### **Synopsis**

**This Ordinance amends Chapter 115, Article IV, § 115-22, Article VI, § 115-39, Article X, § 115-71, Article XI, § 115-79, Article XIA, § 115-83.5 and Article XII, § 115-87, Conditional uses, by deleting in their entirety the definitional paragraphs pertaining to “[c]ircus or carnival grounds, amusement park or midways...” in each of the foregoing provisions and inserts a broader new definition of “Special Events” in each of the foregoing sections. This Ordinance further provides that: (1) all Special Events lasting more than three (3) days shall be subject to the conditional use process; (2) Special Events, as defined herein and lasting no more than three (3) days, are not subject to the conditional process and, upon application, may be approved by the Director or his designee; (3) and all Special Events, regardless of duration, shall be subject to the Sussex County Special Event Policy.**

**Deleted text is in brackets. Additional text is underlined.**





# Sussex County Council

## Delaware General Assembly Legislative Report

*Prepared by:*

Hal Godwin, Deputy County Administrator

June 25, 2013

Bill No.	Description and Purpose	Action
<b>2013 BILLS</b>		
HB 14	This bill provides that any income and/or capital gain received from easements preserving agricultural land shall not be taxed for purposes of Delaware personal income taxes.	Assigned to the House Appropriations Committee 1/24/13, no further action.
HB 27	This bill allows school taxes and property taxes to be collected by tax intercept. The current law specifically prohibits school taxes from being collected by tax intercept. Currently millions of dollars of property taxes are owed to school districts and local governments and such taxes are difficult to collect. Tax intercept programs have been successful in collecting child support and other obligations owed the State and will help collections for education and other taxes.	6/11/13 passed the House  Assigned to Senate Finance Committee 6/13/13  I have contacted Senator McDowell the Committee Chair explaining our support.
HB 44 & HA No. 2	This bill permits a real property owner or tenant to display an American flag on a pole attached to the exterior of the property's structure or on a flagpole located within the property's boundaries, provided the flagpole does not exceed 25 feet in height and conforms to all setback requirements. Any and all community restrictions to the contrary will not be enforceable.	4/18/13 passed the House with Amendment No. 2  4/24/13 assigned to Senate Community/County Affairs Committee and released from Committee 6/5/13  Passed the Senate 6/20/13 w/SA No. 2
SA No. 2 To HB No. 44	This amendment clarifies that tenants may not install a pole on the exterior of the property's structure unless the tenant has a leasehold interest in the exterior of the structure.	

HB No. 63	This bill is the first leg of a constitutional amendment that forever guarantees the right of farmers to engage in modern farming and ranching practices.	On House Ready List
SB No. 58	This Bill allows Delaware residents 65 years of age and older to qualify for the "Senior School Property Tax Credit Program" upon entering into a payment plan for the taxes due.	We are currently compliant with this proposed Bill.  On Senate Ready List
Senate Bill No Number	This Bill provides for property tax exemption for the dwelling of military veterans who are disabled and for their spouses, if the veteran is deceased.	Not introduced, we have been asked for our comments.  Our plan currently reduces property taxes for people with disabilities; however this bill would completely eliminate property taxes for disabled veterans.
HB No. 150	This Bill is considered the Raw Milk Bill. This Bill would establish a permit processes to allow farmers to sell raw milk from their farms.	6/12/13 Released from Committee
	<b>REPORT CONTINUED ON FOLLOWING PAGE</b>	

<div>HB No. 74</div>	<div><p>This Delaware Health Security Act will provide a cost effective single payer health care system for the State of Delaware. The Act will provide comprehensive health care coverage to all Delawareans without any extra health insurance or out-of-pocket-expense. The system will save money currently wasted on administrative/overhead costs and will provide a stable funding structure.</p><p>This Act creates the Delaware Health Security Authority. The authority will be governed by a 15-member Delaware Health Security Board comprised as follows: the Secretary of Health and Social Services, two members from both the State House of Representatives and State Senate Committees concerned with health care issues, five members from state health professional organizations, and five members from eligible consumer organizations in our state.</p><p>Funding for the new health care system will be as follows:</p><div><div>1.</div><div>All state and federal funds available for health and health care costs in Delaware.</div></div><div><div>2.</div><div>Employer and employee graduated payroll tax from 4 percent for employers with less than ten employees to 9 percent for employers with 50 or more employees.</div></div><div><div>3.</div><div>A Health Security tax of 2.5 percent on net taxable income (after deductions) for all heads of households and persons subject to Delaware’s income tax; and</div></div><div><div>4.</div><div>An additional Health Security income surtax on net taxable income of 2.5 percent for persons filing a Delaware income tax return in excess of \$250,000. Married couples filing a joint Delaware income tax return shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.</div></div></div>	<div><p>This bill has been assigned to the House Health &amp; Human Development Committee</p><p>This bill has not yet been scheduled for a Committee hearing.</p><p>I will be certain to alert you of this date and time.</p><p><b>Committee Members:</b></p><div><div>Chairman:</div><div>Michael a. Barbieri (302) 368-7257 <a href="mailto:Michael.barbieri@state.de.us">Michael.barbieri@state.de.us</a></div></div><div><div>Vice-Chairman:</div><div>Rebecca Walker (302) 293-2356 <a href="mailto:Rebecca.walker@state.de.us">Rebecca.walker@state.de.us</a></div></div><p><b>Members:</b></p><div><div>Donald A. Blakey (302) 697-6723 <a href="mailto:Donald.Blakey@state.de.us">Donald.Blakey@state.de.us</a></div><div>Ruth Briggs-King (302) 856-2772 <a href="mailto:ruth.briggsking@state.de.us">ruth.briggsking@state.de.us</a></div></div><div><div>Timothy D. Dukes (302) 280-6344 <a href="mailto:Timothy.Dukes@state.de.us">Timothy.Dukes@state.de.us</a></div><div>Earl G. Jaques, Jr. (302) 834-9231 <a href="mailto:earl.jaques@state.de.us">earl.jaques@state.de.us</a></div></div><div><div>S. Quinton Johnson (302) 378-2681 <a href="mailto:Quinton.johnson@state.de.us">Quinton.johnson@state.de.us</a></div><div>John A. Kowalko, Jr. (302) 737-2396 <a href="mailto:john.kowalko@state.de.us">john.kowalko@state.de.us</a></div></div></div>
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<p>HB No. 74 (continued)</p>		<p>Joseph E. Miro (302) 454-1840 <a href="mailto:Joseph.miro@state.de.us">Joseph.miro@state.de.us</a> <a href="mailto:Edward.osienski@state.de.us">Edward.osienski@state.de.us</a></p> <p>Edward S. Osienski (302) 292-8903</p> <p>Charles Potter, Jr. (302) 762-8322 <a href="mailto:Charles.Potter@state.de.us">Charles.Potter@state.de.us</a></p> <p>Darryl M. Scott (302) 735-1781 <a href="mailto:Darryl.Scott@state.de.us">Darryl.Scott@state.de.us</a></p> <p>Kimberly Williams (302) 577-8476 <a href="mailto:kimberly.williams@state.de.us">kimberly.williams@state.de.us</a></p> <p>* Federal Health Care Legislation requires all citizens be covered – the new tax will fund</p> <p>* Delaware is currently establishing exchanges to provide coverage for all residents to comply with Federal requirements</p> <p>* HB74 is introduced to cover all Delawareans – doesn't appear to be part of the State or Federal exchange plan</p>
<p>HB No. 95 w/ HA No. 2</p>	<p>This Act provides the Department of Natural Resources and Environmental Control with the authority to impose environmental liens on real property in an effort to recover taxpayers' money expended by the State in order to investigate and clean up contaminated properties in circumstances where the property owners who caused the contamination have failed to do so. This bill originates from a recommendation made by the 2003 Metachem Task Force, chaired by the Honorable William T. Quillen. As the Task Force Report noted, currently at least thirty-four states (including all of our neighboring states) and the federal government have statutory authority to impose environmental liens. Besides bringing Delaware law in line with the vast majority of our sister states and the United States, this Act provides an important means of protecting the public</p>	<p>Passed House 6/18/13 w/Amendment No. 2</p> <p>This Amendment effectively rewrites the Bill; the objective of the Bill remains the same while offering affected property owners an appeals process and addresses leaking underground storage tanks more directly.</p> <p>PLEASE READ THIS NEW DOCUMENT CAREFULLY</p>

<p>HB No. 95 w/ HA No. 2 (continued)</p>	<p>treasury while holding responsible property owners accountable for the environmental harm they cause.</p> <p>Section 1 of the Act provides DNREC with authority to impose an environmental lien when a violation of the Delaware Hazardous Substance Cleanup Act (HSCA) has resulted in the expenditure of State funds to protect human health and the environment. Specifically, if DNREC must perform a remedy at a property using public funds, it can impose an environmental lien in order to attempt to recover the State's costs provided it gives prior notice to the property owner who has failed to perform or pay for the required remedial activities. An environmental lien when filed will have priority over subsequently filed liens. Such a lien will be discharged upon full satisfaction by the property owner of the liability for the remediation costs incurred by the State. A property owner who seeks to challenge the filing of an environmental lien can contest the imposition of the lien before the Environmental Appeals Board subject to the applicable statutory procedures contained in 7 Del. C. §6008. Additionally, if DNREC determines that the imposition of an environmental lien will be insufficient to enable it to recover its costs of performing a remedy in a particular case, it can petition the Delaware Court of Chancery to seek the imposition of an additional lien or liens on any other Delaware real property owned by the same person or persons as the property where the remediation activities occurred.</p> <p>Section 2 of the Act extends the same provisions applicable to a violation of HSCA to a violation of the Delaware Underground Storage Tank Act (7 Del. C. Chapter 74). As is the case with the other provisions of the Underground Storage Tank Act, certain agricultural, residential and non-commercial underground storage tanks are exempted from the provisions of this Act.</p> <p>Section 3 of the Act extends the same provisions applicable to a violation of HSCA and the Delaware Underground Storage Tank</p>	
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<p>HB No. 95 w/ HA No. 2 (continued)</p>	<p>Act to the Jeffrey Davis Aboveground Storage Tank Act (7 Del. C. Chapter 74A). As is the case with the other provisions of the Aboveground Storage Tank Act, certain agricultural, residential and non-commercial aboveground storage tanks are exempted from the provisions of this Act.</p> <p>Section 4 of the Act provides that its provisions are severable.</p>	
<p>HB No. 135</p>	<p>This Act seeks to create jobs and new sources of revenue for the State of Delaware by, among other means, authorizing the addition of two new video lottery agents, one in Sussex County and one in New Castle County, through an application process conducted by a Lottery Economic Development Committee. This Act creates a nine member, politically-balanced Committee with financial, accounting, or banking experience to select the sites and licensees. This Act also increases the number of required racing days to reflect the current amount of racing, and prevents the addition of video lottery agents from triggering a reduction in the minimum number of days that existing harness tracks must offer harness racing. Finally, this Act also expresses the intent of the General Assembly that the new video lottery casinos will be subject to a one-time license fee and ongoing license fees, as well as such fees as are necessary to create a level playing field for competition with video lottery agents who operate horse racing or harness racing, and directs the Department of Finance to prepare legislation implementing that intent.</p>	<p>Introduced 5/9/13 - This Bill intends to add a casino in Sussex County.</p> <p>Assigned to House Gaming and Parimutuels Committee</p> <p>6/12/13 Tabled in Committee</p> <p>6/11/13 County Council voted to oppose this Bill.</p> <p>I have notified all Committee Members of our opposition.</p>
<p>HB No. 137</p>	<p>This Bill expands and promotes unity in the options for survivor pension payout choices for retired participants in the State pension programs, the State Employees' Pension Plan, the County and Municipal Employees' Pension Plan, the County and Municipal Police/Firefighter Pension Plan, the State Judiciary Pension Plan, and the State Police Pension Plan. There is no reduction for the 50% survivor benefit, a 2% reduction for a 66.67% survivor benefit, 3% reduction for a 75% survivor benefit, and 6% reduction for a 100% survivor benefit.</p>	<p>Introduced 5/14/13 - This Bill may cause changes in our pension calculations.</p> <p>6/6/13 Passed the House</p> <p>Assigned to Senate Finance Committee</p>

HA No. 1 to HB No. 137	This technical amendment changes the term “employer” to “employee” and corrects a cross-reference.	
HA No. 2 To HB No. 137	This amendment makes the following technical changes: 1) the term “employer” is corrected to “employee”; a cross-reference is added for a newly added paragraph; internal cross-references are corrected; and the judiciary’s option of a 6% reduction in exchange for 100% survivor benefit is added.	
HA No. 1 To HA No. 2 To HB No. 137	This amendment to House Amendment No. 2 makes the provisions of this legislation effective for those retiring with an effective date of retirement of July 1, 2014, in order to allow for necessary administrative and systems changes.	
SB No. 78 + SA-1	<p>This legislation establishes a Wetlands Advisory Committee to develop comprehensive recommendations for conserving and restoring non-tidal wetlands in Delaware, including evaluating national best practices and standards, evaluating incentive-based programs, and reviewing state and federal wetland permitting processes to identify opportunities to improve efficiency and eliminate redundancy. The Secretary will provide a final report of recommendations to the General Assembly no later than December 31, 2014.</p> <p>The bill also amends Title 7 Del C. Chapter 66, §6607 and §6617 and Title 7 Del C. Chapter 72, §7205 and §7214 to expedite resolution of violations by allowing the use of administrative procedures and penalties to resolve wetland and subaqueous lands violations and by minimizing the use of civil or criminal prosecution to resolve violations. The bill also allows the Secretary to issue after-the-fact permits and assess administrative penalties as appropriate.</p>	<p>6/6/13 passed the Senate with Amendment</p> <p>6/12/13 Released from House Natural Resources Committee</p>

HB No. 160	<p>Delaware is the only state on the East Coast of the United States that does not have a shellfish aquaculture industry. Shellfish aquaculture can provide significant economic benefits to coastal communities while improving the water quality and enhancing the habitat value of Delaware's most imperiled estuaries, the Inland Bays. This bill is designed to minimize conflicts with existing uses of the Inland Bays. It authorizes the Department of Natural Resources and Environmental Control to direct and control the shellfish aquaculture activities within the Inland Bays and to set criteria for the approval of lease sites and applications for leasing. The legislation also gives the Department the authority to collect fees for lease applications and to administer a harvester license. The Bill sets lease fees and harvester license fees, establishes term limits on leases, sets penalties for non-compliance with the provisions of the bill, defines illegal gear, stipulates what is to be the disposition of abandoned lease sites, and defines what would constitute theft or tampering with gear legally set on leased sites. The legislation also authorizes the Department to promulgate regulations on issuing and administering leases, including the revocation of leases for cause. It further gives the Department regulatory authority over determining; what species may be cultured and where, adding acreage to approved lease sites, the required marking and inspection of lease sites, limits on the type and nature of gear that may be used on lease sites, what would constitute abandonment of lease sites and disposition of gear left on abandoned sites, seasonal restrictions on working on lease sites, prevention and control of shellfish-borne diseases, and criteria for importation of shellfish to be used for aquaculture purposes in order to protect wild shellfish. The legislation also clarifies the authority of the Department of Agriculture to coordinate activities in closed-system aquaculture only and deletes reference to the Department's Delaware Aquaculture Council, which is not active and is no longer needed given the clarification of authority.</p>	<p>6/11/13 Passed the House</p> <p>6/13/13 Assigned to Senate Natural Resources and Environmental Committee</p>
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HA No. 1 To HB No. 160	This amendment changes the vote requirement for this bill to a two-thirds vote.	
SR No. 8	The Resolution urges the United States Congress to support efforts to reinstate the separation of commercial and investment banking functions in effect under the Glass-Steagall Act and supporting H.R. No. 129. <i>(See attached documentation)</i>	<p>This is a Resolution only; to demonstrate Delaware State support for Federal Legislation.</p> <p>State Senator Venables is requesting our endorsement.</p> <p>SR No. 8 demonstrates Delaware support for US House of Representative Resolution No. 129 which would support re-enacting Glass-Steagall Act adopted by Congress in 1933 to protect the public interest regarding banking regulations.</p> <p>Congress repealed this law in 1999 which many believe led to the 2<sup>nd</sup> Great Depression in America. Some members of Congress would like to reinstate the Glass-Steagall Act.</p>
HB No. 190	This Bill would facilitate the growth of Delaware licensed farm wineries, brewery-pubs, microbreweries, and craft distilleries by allowing them to expand their businesses within and outside of the State, provided they continue to meet the production limitations set forth in the statutes. It would also permit brewery-pubs to distill products which are not malt-based.	Please review carefully regarding farm wineries.
HA No. 1 To HB No. 190	This amendment removes the limitation of 14% or less ethyl alcohol for a licensed farm winery to manufacture, ferment, blend, age, store, and bottle wine.	
SB No. 97	This Act adds the term “gender identity” to the already-existing list of prohibited practices of discrimination and hate crimes. As such, this Act would forbid discrimination against a person on the basis of gender identity in housing, employment, public works contracting, public accommodations, and insurance, and it would provide for increased punishment of a person who intentionally selects the victim of a crime because of the victim’s gender identity.	This Bill has been adopted by both chambers of the State Legislature and signed into Law by the Governor 6/19/13.

HA No. 1 To SB No. 97	This amendment clarifies that gender identity may be demonstrated by consistent and uniform assertion of the identity of other evidence that it is part of a person's core identity, and explicitly provides that places of public accommodation may provide reasonable accommodations on the basis of gender identity in areas of facilities where disrobing is likely, such as separate or private areas for the use of persons whose gender-related identity, appearance or expression is different from their assigned sex at birth.	
HA No. 1 To HA No. 1 To SB No. 97	This amendment to the amendment corrects the references to Senate Bill No. 97, as opposed to House Bill No. 97	



SPONSOR: Sen. Hall-Long

DELAWARE STATE SENATE  
147th GENERAL ASSEMBLY

SENATE AMENDMENT NO. 2  
TO  
HOUSE BILL NO. 44

AMEND House Bill No. 44, as amended by House Amendment No. 2, by deleting lines 3 through 5 of House Amendment No. 2 and substituting in lieu thereof the following:

“No restriction shall be enforceable with respect to real property which prohibits or limits the ability of a property owner or tenant to display the flag of the United States of America on a pole attached to the exterior of the property’s building or structure within the owned or leased property’s boundaries or on a flagpole located within the owned or leased property’s boundaries, if the flagpole is”

SYNOPSIS

This amendment clarifies that tenants may not install a pole on the exterior of the property’s structure unless the tenant has a leasehold interest in the exterior of the structure.

Author: Senator Hall-Long



SPONSOR: Rep. Heffernan & Rep. Keeley & Rep. B. Short & Sen. McDowell  
Reps. Baumbach, Q. Johnson, Kowalko, Mulrooney, Osienski, D.E. Williams; Sens. McBride, Peterson

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE BILL NO. 95

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION AND ENVIRONMENTAL LIENS.

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

1           Section 1. Amend § 9117, Title 7 of the Delaware Code by making insertions as shown by underlining and  
2 deletions as shown by strike through as follows:

3           §9117. ~~Obligations under bankruptcy.~~ Environmental liens.

4           ~~No obligations imposed by this chapter shall constitute a lien or claim which may be limited or discharged in a~~  
5 ~~bankruptcy proceeding. All obligations imposed by this chapter shall constitute continuing regulatory obligations imposed~~  
6 ~~by the State.~~

7           (a) Pursuant to the provisions of this section, all costs related to any remedy undertaken by the State for which a  
8 person is liable under this chapter or the regulations promulgated pursuant thereto shall constitute a lien in favor of the State  
9 upon the real property where such remedy takes place.

10          (b) A lien created under this section constitutes record notice and attaches to and is perfected against real property  
11 when:

12           (1) No less than 21 days prior to the effective date of the lien, a notice of lien is sent by the Secretary, by  
13 means of certified or registered mail, to the last known address of all owners of the property;

14           (2) A notice of lien is filed by the Secretary with the Office of the Recorder of Deeds in the county in  
15 which the property is located; and

16           (3) Costs associated with any remedy at the property are incurred by the State.

17          (c) A person whose interest is substantially affected by any action of the Secretary taken pursuant to subsection (a)  
18 of this section may contest the imposition of a lien to the Environmental Appeals Board in accordance with § 6008 of this  
19 Title.

20          (d) A lien created under this section has priority over all other liens and encumbrances perfected after the date that  
21 the lien recorded pursuant to this section is perfected.

(e) A lien created under this section continues until fully satisfied or otherwise discharged in accordance with law.

(f) Upon satisfaction of the liability secured by a lien created under this section, the Secretary shall file a notice of release of lien with the Office of Recorder of Deeds in the county in which the real property is located.

(g) No lien or obligation created under this chapter may be limited or discharged in a bankruptcy proceeding. All obligations imposed by this chapter shall constitute regulatory obligations imposed by the State.

(h) If the Secretary determines that the funds projected to be available in order to satisfy the lien provided pursuant to subsection (a) of this section will be insufficient to permit the State to recover fully its costs, the Secretary may file a petition in the Court of Chancery seeking to impose an additional lien or liens upon other real property in this State owned by the same person or persons as the property where the costs are incurred.

(1) A petition filed by the Secretary pursuant to this subsection shall describe with particularity the real property to which the requested lien will attach.

(2) Upon filing of a petition by the Secretary, the Court shall schedule a hearing to determine whether the petition should be granted. Notice of the hearing shall be provided to the Secretary, the owner or owners of the real property which is the subject of the petition, and any person holding a lien or a perfected security interest in the property.

Section 2. Amend § 7419, Title 7 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 7419. ~~Recovery of expenditures.~~ Environmental liens; recovery of expenditures.

~~The Department shall seek recovery of moneys expended from the fund for corrective action under this chapter where the owner or operator has violated substantive regulations pertaining to underground storage tanks which have been promulgated by the Department or has engaged in grossly negligent conduct.~~

(a) Pursuant to the provisions of this section, all costs expended by the State related to investigating a release or suspected release of a regulated substance from an underground storage tank system including, but not limited to, performing inspections, release detection monitoring, site assessments, removal of regulated substances, removal or closure in place of any part of the underground storage tank system, actions necessary to abate an emergency situation such as installing water treatment, supplying drinking water, installing wells and venting petroleum vapors, as well as other necessary corrective actions for which a person is liable under this chapter or the regulations promulgated pursuant thereto shall constitute a lien in favor of the State upon the real property where such activities occur.

(b) A lien created under this section constitutes record notice and attaches to and is perfected against real property when:

51 (1) No less than 21 days prior to the effective date of the lien, a notice of lien is sent by the Secretary, by  
52 means of certified or registered mail, to the last known address of all owners of the property;

53 (2) A notice of lien is filed by the Secretary with the Office of the Recorder of Deeds in the county in  
54 which the property is located; and

55 (3) Costs associated with corrective action at the property as described in subsection (a) of this section are  
56 incurred by the State.

57 (c) A person whose interest is substantially affected by any action of the Secretary taken pursuant to subsection (a)  
58 of this section may contest the imposition of a lien to the Environmental Appeals Board in accordance with § 6008 of this  
59 Title.

60 (d) A lien created under this section has priority over all other liens and encumbrances perfected after the date that  
61 the lien recorded pursuant to this section is perfected.

62 (e) A lien created under this section continues until fully satisfied or otherwise discharged in accordance with law.

63 (f) Upon satisfaction of the liability secured by a lien created under this section, the Secretary shall file a notice of  
64 release of lien with the Office of Recorder of Deeds in the county in which the real property is located.

65 (g) No lien or obligation created under this chapter may be limited or discharged in a bankruptcy proceeding. All  
66 obligations imposed by this chapter shall constitute regulatory obligations imposed by the State.

67 (h) If the Secretary determines that the funds projected to be available in order to satisfy the lien provided pursuant  
68 to subsection (a) of this section will be insufficient to permit the State to recover fully its costs, the Secretary may file a  
69 petition in the Court of Chancery seeking to impose an additional lien or liens upon other real property in this State owned  
70 by the same person or persons as the property where the costs are incurred.

71 (1) A petition filed by the Secretary pursuant to this subsection shall describe with particularity the real  
72 property to which the lien will attach.

73 (2) Upon filing of a petition by the Secretary, the Court shall schedule a hearing to determine whether the  
74 petition should be granted. Notice of the hearing shall be provided to the Secretary, the owner or owners of the real  
75 property which is the subject of the petition, and any person holding a lien or a perfected security interest in the property.

76 (i) The provisions of this section shall not apply to those classes of underground storage tanks set forth in §  
77 7404(1) and (2) of this chapter.

78 Section 3. Amend Chapter 74A, Title 7 of the Delaware Code by re-designating current § 7416A as § 7417A and  
79 by inserting a new § 7416A as shown by underlining as follows:

80 § 7416A. Environmental liens; recovery of expenditures.

81 (a) Pursuant to the provisions of this section, all costs expended by the State related to investigating a release or  
82 suspected release of a regulated substance from an aboveground storage tank including, but not limited to, performing  
83 inspections, tests and repairs, release detection monitoring, site assessments, removal of regulated substances, removal or  
84 closure in place of any part of the aboveground storage tank, actions necessary to abate an emergency situation such as  
85 installing water treatment, supplying water, installing wells, and removing contaminated media, and abating hazardous  
86 vapors, as well as other necessary corrective actions for which a person is liable under this chapter or the regulations  
87 promulgated pursuant thereto shall constitute a lien in favor of the State upon the real property where such activities take  
88 place.

89 (b) A lien created under this section constitutes record notice and attaches to and is perfected against real property  
90 when:

91 (1) No less than 21 days prior to the effective date of the lien, a notice of lien is sent by the Secretary, by  
92 means of certified or registered mail, to the last known address of all owners of the property;

93 (2) A notice of lien is filed by the Secretary with the Office of the Recorder of Deeds in the county in  
94 which the property is located; and

95 (3) Costs associated with corrective action at the property as described in subsection (a) of this section are  
96 incurred by the State.

97 (c) A person whose interest is substantially affected by any action of the Secretary taken pursuant to subsection (a)  
98 of this section may contest the imposition of a lien to the Environmental Appeals Board in accordance with § 6008 of this  
99 Title.

100 (d) A lien created under this section has priority over all other liens and encumbrances perfected after the date that  
101 the lien recorded pursuant to this section is perfected.

102 (e) A lien created under this section continues until fully satisfied or otherwise discharged in accordance with law.

103 (f) Upon satisfaction of the liability secured by a lien created under this section, the Secretary shall file a notice of  
104 release of lien with the Office of Recorder of Deeds in the county in which the property is located.

105 (g) No lien or obligation created under this chapter may be limited or discharged in a bankruptcy proceeding. All  
106 obligations imposed by this chapter shall constitute regulatory obligations imposed by the State.

107 (h) If the Secretary determines that the funds projected to be available in order to satisfy the lien provided pursuant  
108 to subsection (a) of this section will be insufficient to permit the State to recover fully its costs, the Secretary may file a  
109 petition in the Court of Chancery seeking to impose an additional lien or liens upon other real property in this State owned  
110 by the same person or persons as the property where the costs are incurred.



111 (1) A petition filed by the Secretary pursuant to this subsection shall describe with particularity the real  
112 property to which the lien will attach.

113 (2) Upon filing of a petition by the Secretary, the Court shall schedule a hearing to determine whether the  
114 petition should be granted. Notice of the hearing shall be provided to the Secretary, the owner or owners of the real  
115 property which is the subject of the petition, and any person holding a lien or a perfected security interest in the property.

116 (i) The provisions of this section shall not apply to those classes of aboveground storage tanks set forth in §  
117 7404A(a)(1), (3) and (4) of this chapter.

118 Section 4. If any provision of this Act or the application thereof is held invalid, such invalidity shall not affect the  
119 provisions of this Act that can be given effect without such invalid provisions or application, and to this end the provisions  
120 of this Act are declared to be severable.

#### SYNOPSIS

This Act provides the Department of Natural Resources and Environmental Control with the authority to impose environmental liens on real property in an effort to recover taxpayers' money expended by the State in order to investigate and clean up contaminated properties in circumstances where the property owners who caused the contamination have failed to do so. This bill originates from a recommendation made by the 2003 Metachem Task Force, chaired by the Honorable William T. Quillen. As the Task Force Report noted, currently at least thirty-four states (including all of our neighboring states) and the federal government have statutory authority to impose environmental liens. Besides bringing Delaware law in line with the vast majority of our sister states and the United States, this Act provides an important means of protecting the public treasury while holding responsible property owners accountable for the environmental harm they cause.

Section 1 of the Act provides DNREC with authority to impose an environmental lien when a violation of the Delaware Hazardous Substance Cleanup Act (HSCA) has resulted in the expenditure of State funds to protect human health and the environment. Specifically, if DNREC must perform a remedy at a property using public funds, it can impose an environmental lien in order to attempt to recover the State's costs provided it gives prior notice to the property owner who has failed to perform or pay for the required remedial activities. An environmental lien when filed will have priority over subsequently filed liens. Such a lien will be discharged upon full satisfaction by the property owner of the liability for the remediation costs incurred by the State. A property owner who seeks to challenge the filing of an environmental lien can contest the imposition of the lien before the Environmental Appeals Board subject to the applicable statutory procedures contained in 7 Del. C. §6008. Additionally, if DNREC determines that the imposition of an environmental lien will be insufficient to enable it to recover its costs of performing a remedy in a particular case, it can petition the Delaware Court of Chancery to seek the imposition of an additional lien or liens on any other Delaware real property owned by the same person or persons as the property where the remediation activities occurred.

Section 2 of the Act extends the same provisions applicable to a violation of HSCA to a violation of the Delaware Underground Storage Tank Act (7 Del. C. Chapter 74). As is the case with the other provisions of the Underground Storage Tank Act, certain agricultural, residential and non-commercial underground storage tanks are exempted from the provisions of this Act.

Section 3 of the Act extends the same provisions applicable to a violation of HSCA and the Delaware Underground Storage Tank Act to the Jeffrey Davis Aboveground Storage Tank Act (7 Del. C. Chapter 74A). As is the case with the other provisions of the Aboveground Storage Tank Act, certain agricultural, residential and non-commercial aboveground storage tanks are exempted from the provisions of this Act.

Section 4 of the Act provides that its provisions are severable.





SPONSOR: Rep. Baumbach

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1

TO

HOUSE BILL NO. 137

1 AMEND House Bill No. 137 by striking line 3 in its entirety and substituting in lieu thereof the following:

2 (g)(1) Notwithstanding provisions of this chapter to the contrary, an employee may elect to have his or

3 FURTHER AMEND House Bill No. 137 by striking line 32 in its entirety and substituting in lieu thereof the  
4 following:

5 §5527(g)(4) of this title, 100% of such service or disability pension.

SYNOPSIS

This technical amendment changes the term “employer” to “employee” and corrects a cross-reference.



SPONSOR: Rep. Baumbach

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 2

TO

HOUSE BILL NO. 137

1 AMEND House Bill No. 137 by striking line 3 in its entirety and substituting in lieu thereof the following:

2 (g)(1) Notwithstanding provisions of this chapter to the contrary, an employee may elect to have his or

3 FURTHER AMEND House Bill No. 137 by striking line 30 in its entirety and substituting in lieu thereof the  
4 following:

5 title, 2/3 of such service or disability pension; (iii) if such pension was computed under the provisions of §  
6 5527(g)(2) or § 5527(g)(3) of

7 FURTHER AMEND House Bill No. 137 by striking line 32 in its entirety and substituting in lieu thereof the  
8 following:

9 §5527(g)(4) of this title, 100% of such service or disability pension.

10 FURTHER AMEND House Bill No. 137 by striking line 51 in its entirety and substituting in lieu thereof the  
11 following:

12 irrevocable.

13 d. Notwithstanding provisions of this section to the contrary, a member may elect to have his or her service or  
14 disability pension, computed under this section, reduced by 6%, thereby providing a survivor's pension equal to 100% of  
15 such reduced amount to the member's eligible survivor or survivors at the time of the member's death. This election must  
16 be made in a form approved by the Board, filed prior to the issuance of the member's first benefit check, and shall be  
17 irrevocable.

18 FURTHER AMEND House Bill No. 137 by striking lines 144 through 146 in their entirety and substituting in lieu  
19 thereof the following:

20 computed under the provisions of § 8368(b) of this title, 2/3 of such service or disability pension; (iii) if such  
21 pension was computed under the provisions of § 8368(c) of this title, 75% of such service or disability pension; or (iv) if

22 such pension was computed under the provisions of § 8368(d) of this title, 100% of such service or disability pension. If the  
23 primary

24 FURTHER AMEND House Bill No. 137 by striking line 155 in its entirety and substituting in lieu thereof the  
25 following:

26 with the month in which the parent dies.

27 Section 9. Amend § 6514(b), Title 29 of the Delaware Code, by making insertions as shown by underlining and  
28 deletions as shown by strike through as follows:

29 (b) Upon the death of a member covered by the revised plan and receiving a service or disability pension at the time of his  
30 or her death, a monthly survivor's pension shall be payable to his or her eligible survivor or survivor's equal to (i) one-half  
31 of such service or disability pension, or (ii) if such pension was computed under § 5613(3)(a) or (b), two-thirds of such  
32 service or disability pension; or (iii) if such pension was computed under § 5613(3)(c), 75% of such service or disability  
33 pension; or (iv) if such pension was computed under § 5613(3)(d), 100% of such service or disability pension.

#### SYNOPSIS

This amendment makes the following technical changes: 1) the term “employer” is corrected to “employee”; a cross-reference is added for a newly added paragraph; internal cross-references are corrected; and the judiciary’s option of a 6% reduction in exchange for 100% survivor benefit is added.



SPONSOR: Rep. Baumbach

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1

TO

HOUSE AMENDMENT NO. 2

TO

HOUSE BILL NO. 137

AMEND House Amendment No. 2 to House Bill No. 137 by striking lines 33 and 34 in their entirety and substituting in lieu thereof the following:

pension; or (iv) if such pension was computed under § 5613(3)(d), 100% of such service or disability pension.

Section 10. The provisions of this Act shall become effective for those retiring with an effective date of retirement on or after January 1, 2014.

SYNOPSIS

This amendment to House Amendment No. 2 makes the provisions of this legislation effective for those retiring with an effective date of retirement of January 1, 2014, in order to allow for necessary administrative and systems changes.



SPONSOR: Rep. Schwartzkopf

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1  
TO  
HOUSE BILL NO. 160

AMEND House Bill No. 160 by adding to the enactment clause after the word "DELAWARE" and before the colon  
“:” the following “(Two-thirds of all members elected to each house thereof concurring therein)”.

SYNOPSIS

This amendment changes the vote requirement for this bill to a two-thirds vote.



SPONSOR: Sen. Ennis & Sen. Venables  
Sens. Cloutier, Hall-Long, Henry, Hocker, Lawson,  
McDowell, Pettyjohn, Sokola

DELAWARE STATE SENATE  
147th GENERAL ASSEMBLY

SENATE RESOLUTION NO. 8

URGING THE UNITED STATES CONGRESS TO SUPPORT H.R. NO.129.

WHEREAS, an effective money and banking system is essential to the functioning of the economy; and

WHEREAS, such a system must function in the public interest, without bias; and

WHEREAS, since 1933, the Federal Banking Act of 1933, known as the Glass-Steagall Act, protected the public interest in matters dealing with the regulation of commercial and investment banking, in addition to insurance companies and securities; and

WHEREAS, the Glass-Steagall Act was repealed in 1999, partially contributing to the greatest speculative bubble and worldwide recession since the Great Depression of 1933; and

WHEREAS, the worldwide recession has left millions of homes in foreclosure; and

WHEREAS, the worldwide recession has cost the loss of millions of jobs nationwide; and

WHEREAS, the worldwide recession has put severe financial strains on states, counties and cities, exacerbating unemployment and loss of civil services; and

WHEREAS, the United States Senate and House of Representatives have been making efforts to restore the protections of the Glass-Steagall Act; and

WHEREAS, Congresswoman Marcy Kaptur has introduced H. Res. 129, known as the Return to Prudent Banking Act of 2013, and reviving the separation between commercial banking and the securities business in the manner provided in the Glass-Steagall Act; and

WHEREAS, the Glass-Steagall Act has widespread national support from such organizations as the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the American Federation of Teachers and the International Association of Machinists, and well as from prominent economic and business leaders, including Thomas Hoenig of the FDIC, Sanford Weill, former CEO of Citigroup, economist Luigi Zingales, the New York Times, the St. Louis Post Dispatch, the Los Angeles Times, and many others;

NOW, THEREFORE:

BE IT RESOLVED by the Senate of the 147<sup>th</sup> General Assembly of the State of Delaware urges Congress to enact

legislation that would reinstate the separation of commercial and investment banking functions that were in effect under the Glass-Steagall Act, prohibiting commercial banks and bank holding companies from investing in stocks, underwriting securities or investing in or acting as guarantors to derivative transactions, in order to prevent American taxpayers from being called upon to fund hundreds of billions of dollars to bail out financial institutions; and

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Delaware and to Congresswoman Marcy Kaptur.

#### SYNOPSIS

The Resolution urges the United States Congress to support efforts to reinstate the separation of commercial and investment banking functions in effect under the Glass-Steagall Act and supporting H.R. No. 129.

Author: Senator Ennis

## Harold Godwin

---

**From:** Steve Komm <stevekomm@gmail.com>  
**Sent:** Thursday, June 20, 2013 1:45 PM  
**To:** Harold Godwin  
**Subject:** Text of HR 129  
**Attachments:** Bill Text HR 129.doc

This text, and the 65 co-sponsors, are available at <http://thomas.loc.gov/home/thomas.php> by clicking on "Bill Number" and typing in the box "HR 129"

I have also attached the same text as a Word doc.

The identical bill is now in the US Senate as S. 985

Steve Komm  
(267)218-5655  
[stevekomm@gmail.com](mailto:stevekomm@gmail.com)

### Bill Text 113th Congress (2013-2014) H.R.129.IH

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**H.R.129 -- Return to Prudent Banking Act of 2013 (Introduced in House - IH)**

HR 129 IH

113th CONGRESS  
1st Session  
H. R. 129



To repeal certain provisions of the Gramm-Leach-Bliley Act and revive the separation between commercial banking and the securities business, in the manner provided in the Banking Act of 1933, the so-called 'Glass-Steagall Act', and for other purposes.

## IN THE HOUSE OF REPRESENTATIVES

January 3, 2013

Ms. KAPTUR (for herself and Mr. JONES) introduced the following bill; which was referred to the Committee on Financial Services

---

### A BILL

To repeal certain provisions of the Gramm-Leach-Bliley Act and revive the separation between commercial banking and the securities business, in the manner provided in the Banking Act of 1933, the so-called 'Glass-Steagall Act', and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the 'Return to Prudent Banking Act of 2013'.

#### SEC. 2. GLASS-STEAGALL REVIVED.

(a) Wall Between Commercial Banks and Securities Activities Reestablished- Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828), as amended by section 615(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by adding at the end the following new subsection:

'(aa) Limitations on Security Affiliations-

'(1) PROHIBITION ON AFFILIATION BETWEEN INSURED DEPOSITORY INSTITUTIONS AND INVESTMENT BANKS OR SECURITIES FIRMS- An insured depository institution may not be or become an affiliate of any broker or dealer, any investment adviser, any investment company, or any other person engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities.

'(2) PROHIBITION ON OFFICERS, DIRECTORS AND EMPLOYEES OF SECURITIES FIRMS SERVICE ON BOARDS OF DEPOSITORY INSTITUTIONS-

'(A) IN GENERAL- An individual who is an officer, director, partner, or employee of any broker or dealer, any investment adviser, any investment company, or any other person engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities may not serve at the same time as an officer, director, employee, or other institution-affiliated party of any insured depository institution.

'(B) EXCEPTION- Subparagraph (A) shall not apply with respect to service by any individual which is otherwise prohibited under such subparagraph if the appropriate Federal banking agency determines, by regulation with respect to a limited number of cases, that service by such individual as an officer, director, employee, or other institution-affiliated party of any insured depository institution would not unduly influence the investment policies of the depository institution or the advice the institution provides to customers.

`(C) TERMINATION OF SERVICE- Subject to a determination under subparagraph (B), any individual described in subparagraph (A) who, as of the date of the enactment of the Return to Prudent Banking Act of 2013, is serving as an officer, director, employee, or other institution-affiliated party of any insured depository institution shall terminate such service as soon as practicable after such date of enactment and no later than the end of the 60-day period beginning on such date.

`(3) TERMINATION OF EXISTING AFFILIATION-

`(A) ORDERLY WIND-DOWN OF EXISTING AFFILIATION- Any affiliation of an insured depository institution with any broker or dealer, any investment adviser, any investment company, or any other person, as of the date of the enactment of the Return to Prudent Banking Act of 2013, which is prohibited under paragraph (1) shall be terminated as soon as practicable and in any event no later than the end of the 2-year period beginning on such date of enactment.

`(B) EARLY TERMINATION- The appropriate Federal banking agency, after opportunity for hearing, may terminate, at any time, the authority conferred by the preceding subparagraph to continue any affiliation subject to such subparagraph until the end of the period referred to in such subparagraph if the agency determines, having due regard for the purposes of this subsection and the Return to Prudent Banking Act of 2013, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices and is in the public interest.

`(C) EXTENSION- Subject to a determination under subparagraph (B), an appropriate Federal banking agency may extend the 2-year period referred to in subparagraph (A) from time to time as to any particular insured depository institution for not more than 6 months at a time, if, in the judgment of the agency, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed 1 year.

`(4) DEFINITIONS- For purposes of this subsection, the terms 'broker' and 'dealer' have the same meanings as in section 3(a) of the Securities Exchange Act of 1934 and the terms 'investment adviser' and 'investment company' have the meaning given such terms under the Investment Advisers Act of 1940 and the Investment Company Act of 1940, respectively.'

(b) Prohibition on Banking Activities by Securities Firms Clarified- Section 21 of the Banking Act of 1933 (12 U.S.C. 378) is amended by adding at the end the following new subsection:

`(c) Business of Receiving Deposits- For purposes of this section, the term 'business of receiving deposits' includes the establishment and maintenance of any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).'

(c) Continued Applicability of ICI vs. Camp-

(1) IN GENERAL- The Congress ratifies the interpretation of the paragraph designated the 'Seventh' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24, as amended by section 16 of the Banking Act of 1933 and subsequent amendments) and section 21 of the Banking Act of 1933 (12 U.S.C. 378) by the Supreme Court of the United States in the case of Investment Company Institute v. Camp (401 U.S. 617 et seq. (1971)) with regard to the permissible activities of banks and securities firms, except to the extent expressly prescribed otherwise by this section.

(2) APPLICABILITY OF REASONING- The reasoning of the Supreme Court of the United States in the case referred to in paragraph (1) with respect to sections 20 and 32 of the Banking Act of 1933 (as in effect prior to the date of the enactment of the Gramm-Leach-Bliley Act) shall continue to apply to subsection (aa) of section 18 of the Federal Deposit Insurance Act (as added by subsection (a) of this section) except to the extent the scope and application of such subsection as enacted exceed the scope and application of such sections 20 and 32.

(3) LIMITATION ON AGENCY INTERPRETATION OR JUDICIAL CONSTRUCTION- No appropriate Federal banking agency, by regulation, order, interpretation, or other action, and no court within the United States may construe the paragraph designated the 'Seventh' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24, as amended by section 16 of the Banking Act of 1933 and subsequent amendments), section 21 of the Banking Act of 1933, or section 18(aa) of the Federal Deposit Insurance Act more narrowly than the reasoning of the Supreme Court of the United

States in the case of *Investment Company Institute v. Camp* (401 U.S. 617 et seq. (1971)) as to the construction and the purposes of such provisions.

### **SEC. 3. REPEAL OF GRAMM-LEACH-BLILEY ACT PROVISIONS.**

(a) Financial Holding Company-

(1) IN GENERAL- Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by striking subsections (k), (l), (m), (n), and (o).

(2) TRANSITION-

(A) ORDERLY WIND-DOWN OF EXISTING AFFILIATION- In the case of a bank holding company which, pursuant to the amendments made by paragraph (1), is no longer authorized to control or be affiliated with any entity that was permissible for a financial holding company, any affiliation by the bank holding company which is not permitted for a bank holding company shall be terminated as soon as practicable and in any event no later than the end of the 2-year period beginning on such date of enactment.

(B) EARLY TERMINATION- The Board of Governors of the Federal Reserve System, after opportunity for hearing, may terminate, at any time, the authority conferred by the preceding subparagraph to continue any affiliation subject to such subparagraph until the end of the period referred to in such subparagraph if the Board determines, having due regard to the purposes of this Act, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices, and is in the public interest.

(C) EXTENSION- Subject to a determination under subparagraph (B), the Board of Governors of the Federal Reserve System may extend the 2-year period referred to in subparagraph (A) above from time to time as to any particular bank holding company for not more than 6 months at a time, if, in the judgment of the Board, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed 1 year.

(3) TECHNICAL AND CONFORMING AMENDMENTS-

(A) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by striking subsection (p).

(B) Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended--

(i) by striking subparagraph (E) of paragraph (2); and

(ii) by striking paragraphs (3), (4), and (5).

(C) Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by striking subsection (g).

(D) The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking section 45.

(E) The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by striking section 10A.

(F) Subtitle B of title I of the Gramm-Leach-Bliley Act is amended by striking section 114 (12 U.S.C. 1828a) and section 115 (12 U.S.C. 1820a).

(b) Financial Subsidiaries Repealed-

(1) IN GENERAL- Section 5136A of the Revised Statutes of the United States (12 U.S.C. 24a) is amended to read as follows:

### **SEC. 5136A. [REPEALED].'**

(2) TRANSITION-

(A) ORDERLY WIND-DOWN OF EXISTING AFFILIATION- In the case of a national bank which, pursuant to the amendments made by paragraph (1), is no longer authorized to control or be affiliated with a financial subsidiary as of the date of the enactment of this Act, such affiliation shall be terminated as soon as practicable and in any event no later than the end of the 2-year period beginning on such date of enactment.

(B) EARLY TERMINATION- The Comptroller of the Currency, after opportunity for hearing, may terminate, at any time, the authority conferred by the preceding subparagraph to continue any affiliation subject to such subparagraph until the end of the period referred to in such subparagraph if the Comptroller determines, having due regard for the purposes of this Act, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices and is in the public interest.

(C) EXTENSION- Subject to a determination under subparagraph (B), the Comptroller of the Currency may extend the 2-year period referred to in subparagraph (A) above from time to time as to any particular national bank for not more than 6 months at a time, if, in the judgment of the Comptroller, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed 1 year.

(3) TECHNICAL AND CONFORMING AMENDMENT-

(A) The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by striking the last sentence.

(B) The Federal Deposit Insurance Act is amended by striking section 46 (12 U.S.C. 1831w).

(4) CLERICAL AMENDMENT- The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by striking the item relating to section 5136A.

(c) Definition of Broker- Section 3(a)(4)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)(B)) is amended--

(1) by striking clauses (i), (iii), (v), (vii), (x), and (xi); and

(2) by redesignating clauses (ii), (iv), (vi), (viii), and (ix) as clauses (i), (ii), (iii), (iv), and (v), respectively.

(d) Definition of Dealer- Section 3(a)(5)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)(C)) is amended--

(1) by striking clauses (i) and (iii); and

(2) by redesignating clauses (ii) and (iv) as clauses (i) and (ii), respectively.

(e) Definition of Identified Banking Product- Subsection (a) of section 206 of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) is amended--

(1) by inserting 'and' after the semicolon at the end of paragraph (4);

(2) in paragraph (5)(B)(ii), by striking '; or' and inserting a period; and

(3) by striking paragraph (6) and all that follows through the end of such subsection.

(f) Definition of Activities Closely Related to Banking-

(1) IN GENERAL- Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking 'the day before the date of the enactment of the Gramm-Leach-Bliley Act' and inserting 'January 1, 1970'.

(2) PROVISION ALLOWING FOR EXCEPTIONS AFTER REPORT TO THE CONGRESS-

Subsection (j) of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)) is amended to read as follows:

`(j) Approval for Certain Post-1970 Subsection (c)(8) Activities-

`(1) IN GENERAL- Notwithstanding the limitation of the January 1, 1970, approval deadline in subsection (c)(8), the Board may determine an activity to be so closely related to banking as to be a proper incident thereto for purposes of such subsection, subject to the requirements of this subsection and such terms and conditions as the Board may require.

`(2) GENERAL STANDARDS- In making any determination under paragraph (1), the Board shall consider whether performance of the activity by a bank holding company or a subsidiary of such company can reasonably be expected to result in a violation of section 18(aa) of the Federal Deposit Insurance Act, section 21 of the Banking Act of 1933, or the spirit of section 2(c) of the Return to Prudent Banking Act of 2013, and other possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

`(3) REPORT AND WAIT- No determination of the Board under paragraph (1) may take effect before the end of the 180-day period beginning on the date by which notice of the determination has been

submitted to both Houses of the Congress together with a detailed explanation of the activities to which the determination relates and the basis for the determination, unless before the end of such period, such activities have been approved by an Act of Congress.'.

(g) Repeal of Provision Relating to Foreign Banks Filing as Financial Holding Companies- Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by striking paragraph (3).

#### **SEC. 4. REPORTS TO THE CONGRESS.**

(a) Reports Required- Each time the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, or another appropriate Federal banking agency makes a determination or an extension under subparagraph (B) or (C) of paragraph (2) or (3) of section 18(aa) of the Federal Deposit Insurance Act (as added by section 2(a)) or subparagraph (B) or (C) of subsection (a)(2) or (b)(2) of section 3, as the case may be, the Board, Comptroller, or agency shall promptly submit a report of such determination or extension to the Congress.

(b) Contents- Each report submitted to the Congress under subsection (a) shall contain a detailed description of the basis for the determination or extension.

SPONSOR: Rep. Schwartzkopf & Rep. Longhurst & Sen. Blevins

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE BILL NO. 190

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS.

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

Section 1. Amend Chapter 5, Title 4 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 512A. Farm wineries.

(a) Upon proper application and subject to the provisions, restrictions and prohibitions of this title, the Commissioner may grant a license to any person who is the owner or lessee of a farm winery to manufacture, ferment, blend, age, store and bottle wine containing 14 percent or less of ethyl alcohol by volume on the premises designated in the license. For purposes of this title, a "farm winery" is defined as an establishment at which the basic ingredients, including but not limited to the harvesting of grapes, to make wine are grown and where wine is fermented or manufactured. Notwithstanding any provisions of this title to the contrary, a farm winery licensee shall be authorized to sell, deliver and ship such wine in barrels, bottles or other closed containers to persons licensed under the provisions of this title to import wine; and to sell and ship wine to persons outside of the State in accordance with this title.

(b) A farm winery licensee shall also be authorized to store and sell wine on the premises by the bottle or by the glass for consumption on or off the premises where sold.

(c) A farm winery licensee shall be exempt from the distance requirements for establishments licensed, or to be licensed, for consumption off the premises, as contained in § 543(d) of this title, and shall not affect the granting of a license of the same type.

(d) A farm winery licensee may sell, on the licensed premises, food items, souvenirs, wine-related supplies and educational material as approved by the Commissioner.

(e) The Commissioner may grant a wine testing license to a farm winery licensee consistent with the provisions of §§ 525 and 554(ff) of this title.

(f) All wine sold by a farm winery licensee shall be in a container which is securely sealed and has attached thereto a label setting forth such information as required by this title, Commission rules and laws of the State.

(g) A farm winery licensee may not engage in any business or activity in the licensed establishment unless authorized by

this title or approved by the Commissioner.

(h) A farm winery licensee or a temporary licensee not to exceed 3 years shall be authorized to purchase and receive shipments of bottled, finished wine from importers located within the State that are licensed in accordance with this title. Such purchases and shipments, if in bottled, finished form, must be manufactured specifically for the Delaware farm winery licensee and bear the private label of the Delaware farm winery licensee on each bottle, and, if being imported from without the State, shall be limited, as follows:

- (1) During the first year of operation, no more than 10,000 gallons of wine;
- (2) During the second year of operation, no more than 7,500 gallons of wine;
- (3) During the third year of operation, no more than 5,000 gallons of wine; and
- (4) After 3 years of operation, no more than 25% of the total gallons of wine manufactured within the State.

(5) Notwithstanding the importation limitations for bottled wine established in this paragraph, at such time when there is sufficient quantity, variety and quality of wine grapes grown in the State, then the Secretary of the Department of Agriculture may mandate that all licensed Delaware farm wineries must use at least 51% Delaware-grown fruit in their blend inventories. In the case of hardship due to crop loss, the Secretary of the Department of Agriculture may issue a special permit to import fruit, juice or other raw materials to compensate for such crop loss. Until such time as the Secretary of the Department of Agriculture makes such mandate, the licensee or a temporary licensee not to exceed 3 years shall be authorized to import grapes or grape juice from other locations within or outside of the State, pursuant to the rules and regulations of the Department of Agriculture, for the purpose of fermentation, blending, bottling and aging.

(6) A temporary farm winery license may be issued, for not more than 3 years, allowing the temporary licensee to operate according to paragraphs (h)(1), (2) and (3) of this section herein if all the licensing requirements have been met except for those required in § 543(g) of this title, which requires government permitting to manufacture or ferment wine at the location. The temporary licensee shall, however, have obtained all necessary government permitting to operate as a temporary licensee.

(i) A farm winery licensee shall be authorized to purchase and receive shipments of unfinished wine in bulk form from suppliers and importers located within and without the State that are licensed in accordance with this title.

(j) A farm winery licensee shall be prohibited from owning or operating or being affiliated with any ~~other manufacturer, importer, supplier~~ or retailer of alcoholic liquor either within or without this State. Notwithstanding the foregoing, it shall be permissible for a farm winery to apply to the Commissioner for a license, under § 512(g)(1) of this title, for use of a portion of the farm winery premises as a caterer.

(k) The Commissioner may promulgate such rules and regulations with respect to the enforcement or furtherance of the objectives and provisions of this section as it may deem necessary, and all such rules and regulations that are not inconsistent with the provisions of this title shall have the force and effect of law.

(l) A Delaware winery or farm winery shall be exempt from the prohibition of sales on Sundays as prescribed in § 709 of this title, but is limited on Sundays to the sale hours of 12 noon to 6 p.m. Where any other major holiday, as listed in § 709(e)

of this title, falls on Sunday, then sales shall be prohibited pursuant to § 709 of this title.

(m) A farm winery licensee shall be authorized to export grapes, grape juice or unfinished wine grown in this State in bulk to persons outside the State for crushing, fermenting, bottling and labeling and shall be authorized to receive the finished product from that person, so long as no grapes, grape juice or wine, grown or manufactured outside the State, are added to the finished product.

(n) The provisions of § 506 of this title to the contrary notwithstanding, a farm winery licensee shall be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a brewery-pub, microbrewery, and/or craft distillery licensed under this chapter and actually located in this State.

#### § 512B. Brewery-pubs.

(a) Subject to the provisions, restrictions and prohibitions of this title, the Commissioner may grant a brewery-pub license to each qualified applicant therefor. No person shall own or operate a brewery-pub unless licensed to do so by the Commissioner. For purposes of this section, a "brewery-pub" shall be an establishment in which beer is manufactured on the premises of the licensed establishment, limited to restaurants owned or leased by the brewery-pub applicant.

(b) The following conditions and restrictions shall apply to the holder of each brewery-pub license:

- (1) It must be situated on the premises of, or be physically a part of, a restaurant;
- (2) It may brew, bottle, and sell beer at no more than 3 licensed establishments, provided that each such licensed establishment qualifies as a separate brewery-pub under this section;
- (3) It shall brew no more than 4,000 barrels of beer in any calendar year;
- (4) It may sell beer manufactured on licensed premises in labeled barrels, bottles, or other closed containers to wholesalers licensed under this title for delivery by them to persons inside or outside this State;
- (5) It may sell at the licensed premises beer manufactured on the licensed premises at retail for consumption off the premises;
- (6) It may sell at the licensed premises beer manufactured on the licensed premises for on-premises consumption; ~~and;~~
- (7) It shall be prohibited from owning, operating or being affiliated with any ~~other manufacturer or importer of alcoholic liquor, either in or without this State; except that the holder of a brew pub license may own, operate or be affiliated with a brewery or a microbrewery licensed under this chapter and actually located within this State; and~~
- (8) The provisions of § 506 of this title to the contrary notwithstanding, it shall be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a farm winery, microbrewery, and/or craft distillery licensed under this chapter and actually located in this State, provided that the total domestic sales of all affiliated suppliers or manufacturers shall not exceed the maximum amount currently specified in 27 C.F.R., Part 25, § 25.152(a)(2) or as hereafter amended.

(c) It shall be unlawful for a person to operate a brewery-pub if:

- (1) The restaurant portion of the licensed establishment fails to offer complete meals for consideration to patrons or fails to operate as a bona fide restaurant as defined by Commissioner rules or this title;



(2) The license is denied, cancelled, suspended or revoked for any of the grounds contained in § 543 or § 561 of this title;

(3) The business is transferred to a different location.

(d) This section shall not prohibit the granting of a restaurant license to sell alcoholic liquors, for on-premises consumption, as provided in § 512 of this title.

(e) The Commissioner may make and publish such rules and regulations with respect to the assessment and payment of the tax on beer, as contained in § 581 of this title, as it deems proper, and all such rules and regulations that are not inconsistent with this title shall have the force and effect of law.

(f) Notwithstanding any other provision of this title to the contrary, the holder of a brewery-pub license may also make, bottle and sell an a malt-based alcoholic liquor that is fermented or distilled on the premises, subject to the following conditions and restrictions:

(1) All of the conditions and restrictions relating to beer set forth in subsection (b) of this section; and

~~(2) For purposes of calculating taxes under § 581 of this title, malt-based alcoholic liquor that is fermented or distilled on the premises shall be considered as beer and the tax on it shall be calculated on the amount in barrels of malt-based beverage prior to fermentation or distillation.~~

(2) Alcoholic liquor that is fermented or distilled on the premises shall be taxed in accordance with § 581 of this title.

(g) The provisions of § 546 of this title to the contrary notwithstanding, the sale for off-premises consumption at up to a combined total of 3 licensees licensed under this section or 2 licensees licensed under this section and a microbrewery licensed pursuant to § 512C of this title all owned or controlled by the same person shall be permitted.

§ 512C. Microbrewery.

(a) Upon proper application and subject to the applicable provisions, restrictions and prohibitions of this title, the Commissioner may grant a license to any person who is the owner or lessee of a microbrewery to manufacture and sell beer, mead and cider.

(b) For purposes of this section, "microbrewery" shall mean a single establishment in which beer, mead or cider is manufactured and which is operated by the licensee in accordance with this section.

(c) Notwithstanding any provision of this title to the contrary, a microbrewery license shall allow the licensee:

(1) To manufacture and sell on the licensed premises beer, mead or cider or a combination thereof, but the licensee shall not manufacture or sell more than the maximum amount permitted by federal regulations to qualify for a "reduced rate of tax for certain brewers" as currently found in the 27 C.F.R., Part 25, § 25.152(a)(2) or as hereafter amended;

(2) To manufacture on the licensed premises beer, mead or cider for persons, other than the licensee, licensed under this title or for persons outside this State;

(3) To sell beer, mead and cider manufactured on the licensed premises in ~~labelled~~labeled barrels, bottles or other closed containers to importers licensed under this title for delivery by them to persons inside or outside the State;

and

(4) To sell at the licensed premises beer, mead and cider manufactured on the licensed premises for consumption on or off the licensed premises. The amount of beer, mead and cider sold for off-premises consumption shall be limited to a maximum of 5 cases per day to each retail customer; and

(5) The provisions of § 506 of this title to the contrary notwithstanding, to be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a farm winery, brewery-pub, and/or craft distillery licensed under this chapter and actually located in this State, provided that the total domestic sales of all affiliated suppliers or manufacturers shall not exceed the maximum amount currently specified in 27 C.F.R., Part 25, § 25.152(a)(2) or as hereafter amended.

(d) It shall be unlawful for a person to operate a microbrewery if:

(1) The license is denied, canceled, suspended or revoked for any of the grounds contained in § 543 or § 561 of this title;

(2) The establishment is moved to a location other than the licensed premises; or

(3) ~~Except as permitted by (c)(2),~~ The licensee owns, operates or is affiliated with any other manufacturer, importer or supplier of alcoholic liquor either in or without this State.

(e) A microbrewery licensee shall be exempt from the distance requirements for establishments licensed or to be licensed as contained in § 543(d) of this title, and such requirements shall not affect the granting of a microbrewery license.

(f) All beer, mead and cider sold by a microbrewery licensee for off-premise consumption shall be in containers which are securely sealed and have attached thereto a label setting forth such information as required by this title, Commissioner rules and laws of the State.

(g) Any microbrewery or brewery licensed by the Commissioner to manufacture beer, mead, or cider in this State may provide samples of the beer, mead, or cider manufactured at said premises in a manner approved by the Commissioner.

(h) The provisions of § 546 of this title to the contrary notwithstanding, the sale for off-premises consumption at a licensee licensed under this section and at up to 2 brewery-pubs licensed pursuant to § 512B of this title all owned or controlled by the same person shall be permitted.

#### § 512E. Craft distillery.

(a) Upon proper application and subject to the applicable provisions, restrictions and prohibitions of this title, the Commissioner may grant a license to any person who is the owner or lessee of a craft distillery to manufacture and sell spirits.

(b) For purposes of this section, "craft distillery" shall mean a single establishment in which spirits are manufactured and which is operated by the licensee in accordance with this section.

(c) Notwithstanding any provision of this title to the contrary, a craft distillery license shall allow the licensee:

(1) To manufacture on the licensed premises and sell not more than 750,000 proof gallons of distilled spirits in any calendar year;

(2) To manufacture spirits, on the licensed premises, for persons other than the licensee who are licensed under this title or for persons outside this State;

(3) To sell, deliver and ship such spirits in labeled barrels, bottles or other closed containers to persons licensed under the provisions of this title to import spirits; and to sell and ship spirits to persons outside of the State in accordance with this title;

(4) To store and sell spirits on the premises by the bottle or by the glass for consumption on or off the premises where sold. The amount of spirits sold for off-premises consumption shall be limited to a maximum of 1 case (i.e., not more than 12--750 ml bottles) per day to each retail customer for consumption off the premises; and

(5) To sell, on the licensed premises, food items, souvenirs, spirit-related supplies and educational material as approved by the Commissioner.

(d) It shall be unlawful for a person to operate a craft distillery if:

(1) The license is denied, canceled, suspended or revoked for any of the grounds contained in § 543 or § 561 of this title;

(2) The establishment is moved to a location other than the licensed premises; or

(3) It is owned, operated or affiliated with any ~~other manufacturer or importer~~ of alcoholic liquor, either in or without this State; except that the holder of a craft distillery license may ~~own, operate or be affiliated with a microbrewery licensed under this chapter and actually located within this State, with a farm winery licensed under this chapter and actually located within this State, and/or with any brewery pub in common ownership licensed under this chapter and actually located within this State~~ have an interest in, be affiliated with, operate, or own in common ownership a microbrewery, farm winery, and/or brewery-pub licensed under this chapter and actually located within this State.

(e) A craft distillery licensee shall be exempt from the distance requirements for establishments licensed or to be licensed as contained in § 543(d) of this title, and such requirements shall not affect the granting of a craft distillery license.

(f) All spirits sold by a craft distillery licensee for off-premise consumption shall be in containers which are securely sealed and have attached thereto a label setting forth such information as required by this title, Commissioner rules and laws of the State.

(g) Any craft distillery licensed by the Commissioner to manufacture spirits in this State may provide tastings of the spirits at said premises pursuant to a spirits tasting license granted by the Commissioner pursuant to § 525 of this title.

(h) The provisions of § 546 of this title to the contrary notwithstanding, the sale for off-premises consumption at up to a combined total of 3 licenses licensed under this section, § 512A, § 512B, or § 512C of this title all owned or controlled by the same person shall be permitted.

(i) A craft distillery licensee shall be authorized to purchase and receive shipments of unfinished neutral grain spirit in bulk form from suppliers and importers located within and without the State that are licensed in accordance with this title.

(j) A craft distillery licensee shall be authorized to export unfinished spirit manufactured in this State in bulk to persons outside the State for blending, aging, finishing, bottling and labeling and shall be authorized to receive the finished product from that person.

(k) A craft distillery shall be exempt from the prohibition of sales on Sundays as proscribed in § 709 of this title, but any

sales on Sundays shall be limited to the hours during which the holders of licenses for the sale of spirits in a store may sell on Sundays pursuant to § 709(h) of this title. A craft distillery shall remain closed on Thanksgiving, Christmas and Easter.

(l) The Commissioner may promulgate such rules and regulations with respect to the enforcement or furtherance of the objectives and provisions of this section as the Commissioner may deem necessary, and all such rules and regulations that are not inconsistent with the provisions of this title shall have the force and effect of law.

(m) The provisions of § 506 of this title to the contrary notwithstanding, the holder of a craft distillery license shall be permitted to have an interest in, be affiliated with, or own another supplier or manufacturer, whether located inside or outside the State, provided that the total domestic sales of all affiliated suppliers or manufacturers shall not exceed 750,000 proof gallons in any calendar year.

#### SYNOPSIS

This bill would facilitate the growth of Delaware licensed farm wineries, brewery-pubs, microbreweries, and craft distilleries by allowing them to expand their businesses within and outside of the State, provided they continue to meet the production limitations set forth in the statutes. It would also permit brewery-pubs to distill products which are not malt-based.



SPONSOR: Rep. Schwartzkopf & Rep. Longhurst

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1

TO

HOUSE BILL NO. 190

- 1 AMEND House Bill No. 190 by striking line 6 in its entirety and substituting in lieu thereof the following:
- 2 blend, age, store and bottle wine ~~containing 14 percent or less of ethyl alcohol by volume~~ on the premises designated in the

SYNOPSIS

This amendment removes the limitation of 14% or less ethyl alcohol for a licensed farm winery to manufacture, ferment, blend, age, store, and bottle wine.

SPONSOR:

Sen. Henry & Sen. Blevins & Rep. B. Short  
Sens. McDowell, Peterson, Poore, Sokola, Townsend;  
Reps. Barbieri, Baumbach, Bolden, Brady, Heffernan,  
J. Johnson, Q. Johnson, Kowalko, Longhurst,  
Mulrooney, M. Smith, D.E. Williams, K. Williams

DELAWARE STATE SENATE  
147th GENERAL ASSEMBLY

SENATE BILL NO. 97

AN ACT TO AMEND TITLES 6, 9, 11, 18, 19, 25, AND 29 OF THE DELAWARE CODE RELATING TO HATE CRIMES AND DISCRIMINATION IN EMPLOYMENT, PUBLIC WORKS CONTRACTING, HOUSING, EQUAL ACCOMMODATIONS, AND THE INSURANCE BUSINESS ON THE BASIS OF GENDER IDENTITY.

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

Section 1. Amend § 4501, Title 6, Delaware Code, by making insertions as shown by underlining as follows:

This chapter is intended to prevent, in places of public accommodations, practices of discrimination against any person because of race, age, marital status, creed, color, sex, handicap, sexual orientation, gender identity or national origin. This chapter shall be liberally construed to the end that the rights herein provided for all people, without regard to race, age, marital status, creed, color, sex, handicap, sexual orientation, gender identity or national origin, may be effectively safeguarded. Furthermore, in defining the scope or extent of any duty imposed by this chapter, higher or more comprehensive obligations established by otherwise applicable federal, state, or local enactments may be considered.

Section 2. Amend § 4502, Title 6, Delaware Code, by renumbering existing subsections (10)-(16) as subsections (11)-(17).

Section 3. Amend § 4502, Title 6, Delaware Code, by inserting a new subsection (10), through insertions as shown by underlining as follows:

(10) "Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Section 4. Amend § 4503, Title ~~6~~, Delaware Code, by making insertions as shown by underlining as follows:

All persons within the jurisdiction of this State are entitled to the full and equal accommodations, facilities, advantages and privileges of any place of public accommodation regardless of the race, age, marital status, creed, color, sex, handicap, sexual orientation, gender identity, or national origin of such persons.

Section 5. Amend § 4504(a) & (b), Title 6, Delaware Code, by making insertions as shown by underlining as follows:

(a) No person being the owner, lessee, proprietor, manager, director, supervisor, superintendent, agent or employee of any place of public accommodation, shall directly or indirectly refuse, withhold from or deny to any person, on account of race,

age, marital status, creed, color, sex, disability, sexual orientation, gender identity or national origin, any of the accommodations, facilities, advantages or privileges thereof. For the purpose of training support animals to be used by persons with disabilities, all trainers and their support animals shall be included within those covered by this subsection.

(b) No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, shall directly or indirectly publish, issue, circulate, post or display any written, typewritten, mimeographed, printed or radio communications notice or advertisement to the effect that any of the accommodations, facilities, advantages and privileges of any place of public accommodation shall be refused, withheld from or denied to any person on account of race, age, marital status, creed, color, sex, disability, sexual orientation, gender identity or national origin, or that the patronage or custom thereat of any person belonging to or purporting to be appearing to be of any particular race, age, marital status, creed, color, sex, disability, sexual orientation, gender identity or national origin is unlawful, objectionable, or not acceptable, desired, accommodated or solicited, or that the patronage of persons of any particular race, age, marital status, creed, color, sex, disability, sexual orientation, gender identity or national origin is preferred or is particularly welcomed, desired or solicited.

Section 6. Amend § 4601(a), Title 6, Delaware Code, by making insertions as shown by underlining as follows:

(a) Purpose.--This chapter is intended to eliminate, as to housing offered to the public for sale, rent or exchange, discrimination based upon race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability, and to provide an administrative procedure through which disputes concerning the same may effectively and expeditiously be resolved with fairness and due process for all parties concerned.

Section 7. Amend § 4602, Title 6, Delaware Code, by renumbering existing subsections (16)-(26) as subsections (17)-(27).

Section 8. Amend § 4602, Title 6, Delaware Code, by inserting a new subsection (16), through insertions as shown by underlining as follows:

(16) "Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Section 9. Amend § 4603(b), Title 6, Delaware Code, by making insertions as shown by underlining as follows:

(b) Except as exempted by § 4607 of this title, it shall be unlawful:

(1) To discriminate in the sale or rental, to refuse to sell or rent, to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

(3) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability, or an intention to make any such preference, limitation or discrimination. However, nothing in this chapter restricts the inclusion of information

about the availability of housing accessible to persons with a disability in advertising of dwellings.

(4) To represent to any person because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

(6) [Repealed.]

Section 10. Amend § 4604, Title 6, Delaware Code, by making insertions as shown by underlining as follows:

(a) In general.--It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

(b) Appraisal exemption.--Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

Section 11. Amend § 4605, Title 6, Delaware Code, by making insertions as shown by underlining as follows:

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling, exchanging or renting dwellings, or to discriminate against the person in the terms or conditions of such access, membership, or participation, on account of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

Section 12. Amend § 4607(c), (d) & (f), Title 6, Delaware Code, by making insertions as shown by underlining as follows:

(c) Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling as long as they are applied to all occupants and do not operate to discriminate or have the effect of discriminating on the basis of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons as defined in § 4602(17)(~~16~~) of this title.

(d) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) Persons residing in such housing as of September 1, 1992 who do not meet the age requirements of § 4602(17)(~~16~~)b. or c. of this title; provided, that new occupants of such housing meet the age requirements of § 4602(17)(~~16~~)b. or c. of this title;

(2) Unoccupied units: provided, that such units are reserved for occupancy by persons who meet the age requirements of § 4602(17)(~~16~~)b. or c. of this title; or

(3) Persons under 18 years of age residing in such housing with a person or persons who do meet the age requirements



of § 4602(17)(16)b. or c. of this title provided that:

a. Such person under 18 years of age must move into the housing by reason of death, serious injury or serious illness of the parent, guardian or person acting in the place of a parent with whom such person under 18 years of age resided immediately before the time of such death, serious injury or serious illness; and

b. Occupancy by the person under 18 years of age is of a temporary nature terminating when reasonably practicable.

(f) Nothing in this chapter shall prohibit discrimination on the basis of sex for single sex student dormitories, fraternities, sororities, other housing or portion thereof of an educational institution certified, chartered, or established by the State and operated for students of that educational institution, provided that such educational institution provides reasonable accommodations to permit access to and use of such facilities consistent with a student's gender identity.

Section 13. Amend § 4619, Title 6, Delaware Code, by making insertions as shown by underlining as follows:

Whoever, whether or not acting under color of law, by force or threat of force wilfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(1) Any person because of race, color, national origin, religion, creed, sex, sexual orientation, gender identity, marital status, familial status, age or disability and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(2) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

a. Participating, without discrimination on account of race, color, national origin, religion, creed, sex, sexual orientation, gender identity, marital status, familial status, age or disability in any of the activities, services, organizations or facilities described in paragraph (1) of this section; or

b. Affording another person or class of persons opportunity or protection so to participate; or

(3) Because any citizen is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, national origin, religion, creed, sex, sexual orientation, gender identity, marital status, familial status, age or disability in any of the activities, services, organizations or facilities described in paragraph (1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate, that citizen shall be fined for each such act not more than \$2,500, or imprisoned not more than 1 year, or both, and if bodily injury results shall be fined for each such act not more than \$10,000, or imprisoned not more than 10 years, or both; and, if death results, for each such act shall be subject to imprisonment for any term of years or for life.

Section 14. Amend § 1183(a)(1), Title 9, Delaware Code, by making insertions as shown by underlining as follows:

(1) No person shall be appointed to, or removed from, or in any way favored or discriminated against with respect to, any county position, or appointive county administrative office, because of race, or color, or national origin, or political, or religious opinions or affiliations, or sex, or sexual orientation, or gender identity;

Section 15. Amend § 1304(a)(2), Title 11, Delaware Code by making insertions as shown by underlining as follows:

(2) Selects the victim because of the victim's race, religion, color, disability, sexual orientation, gender identity, national origin or ancestry, shall be guilty of a hate crime. For purposes of this section, the term "sexual orientation" means heterosexuality, bisexuality, or homosexuality, and the term "gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Section 16. Amend § 2304(22), Title 18, Delaware Code, by making insertions as shown by underlining as follows:

(22) Unfair discrimination in the value of insurance policies and premiums based on race, color, religion, sexual orientation, gender identity or national origin; penalty.--

a. It shall be an unlawful practice for any insurance company licensed to do business in this State to discriminate in any way because of the insured's race, color, religion, sexual orientation, gender identity or national origin, or to make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, to include the writing of any policy or the application therefor, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which discriminates in any way because of the insured's race, color, religion, sexual orientation, gender identity or national origin or to classify or refer to any individual on the basis of race, color, religion, sexual orientation, gender identity or national origin.

b. "Sexual orientation" exclusively means heterosexuality, homosexuality, or bisexuality.

c. "Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless the person's assigned sex at birth.

~~c.d.~~ The Department of Insurance is empowered, as hereinafter provided, to prevent any licensed or authorized insurance company from engaging in any discriminatory practices as set forth in paragraph a. of this subdivision.

~~d.e.~~ Whenever a charge is filed with the Department by or on behalf of a person claiming to have been discriminated against in the purchase of insurance because of race, religion, sexual orientation, gender identity, color or national origin, the Department shall serve a copy of the charge on such insurance company and shall make an investigation thereof. Charges shall be in writing and shall contain such information and be in such form as the Department requires. Such charges shall not be made public by the Department. If the Department determines after such investigation that there is reasonable cause to believe that the charge is not true, it shall dismiss the charge and promptly notify the person claiming to have been discriminated against and the respondent of its action. Such notice shall be in writing and shall set forth the facts upon which the decision is based.

~~e.f.~~ If the Department determines, after the investigation referred to in paragraph (22)~~e.c.~~ of this section, that there is reasonable cause to believe that the charge is true, the Department shall endeavor to eliminate any such alleged unlawful practice by informal methods of conference, conciliation and persuasion. Nothing said or done during and as a part of such conciliation endeavors may be made public by the Department, its officers or employees or used as evidence in a subsequent proceeding without the written consent of the persons concerned. The Department shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than 120 days from the filing of the charge. A charge under paragraph (22)~~e.c.~~ of this section must be filed within 90 days after the alleged unlawful discriminatory practice or 120 days after discovery

thereof, whichever is the later.

~~f.g.~~ If the Department determines, after attempting to secure voluntary compliance under paragraph (22)~~f.d.~~ of this section, that it is unable to secure from the respondent a conciliation agreement acceptable to the Department and to the person aggrieved, which determination shall not be reviewable in any court, the Department shall issue and cause to be served upon the respondent a complaint stating the facts upon which the allegation of the unlawful discriminatory practice is based together with a notice of hearing before the Commissioner or the Commissioner's agent, at a place therein fixed not less than 5 days after the serving of such complaint. The complaint may be amended at any reasonable time provided that the respondent has sufficient time to respond thereto. Related proceedings may be consolidated for hearing.

~~g.h.~~ A respondent shall have the right to file an answer to the complaint against the respondent and may amend the respondent's own answer at any reasonable time. The respondent and the person aggrieved shall be parties and may appear at any stage of the proceedings, with or without counsel. All testimony shall be taken under oath and shall be reduced to writing.

~~h.i.~~ If the Commissioner or the Commissioner's agent finds that the respondent has engaged in an unlawful discriminatory practice, the Commissioner or the Commissioner's agent shall state its findings of fact in writing and shall issue and cause to be served on the respondent and the person or persons aggrieved by such unlawful discriminatory practice an order requiring the respondent to cease and desist from such unlawful practice. Such order may further require such respondent to make reports from time to time showing the extent to which the respondent has complied with the order. If the Commissioner or the Commissioner's agent finds that the respondent has not engaged in any unlawful discriminatory practice, the Commissioner or the Commissioner's agent shall state those findings of fact in writing and shall issue and cause to be served on the respondent and the person or persons alleged in the complaint to be aggrieved an order dismissing the complaint.

~~i.j.~~ 1. Any complainant or aggrieved party, or respondent or intervenor or the Commissioner or the Commissioner's agent may obtain an order of the Court of Chancery for enforcement of the Commissioner's order. The proceeding for enforcement is initiated by filing a petition in the Court of Chancery. Copies of the petition shall be served upon all parties of record. Within 30 days after the service of the petition upon the Commissioner or the Commissioner's agent or its filing by the Commissioner or the Commissioner's agent or within such further time as the Court may allow, the Commissioner or the Commissioner's agent shall transmit to the Court the original or a certified copy of the entire record upon which the order is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the proceeding, the record may be shortened. The Court may reverse or modify the order if substantial rights of the petitioner have been prejudiced or the findings of fact of the Department are clearly erroneous. The Court shall have power to grant such temporary relief or restraining order as it deems just and to enter an order enforcing, as modified, or setting aside in whole or in part the order of the Commissioner or the Commissioner's agent or remand the case to the Department for further proceedings.

2. A proceeding under this section must be initiated within 30 days after a copy of the order of the Commissioner or the Commissioner's agent is received. If no proceeding is so initiated, the Commissioner or the Commissioner's agent may obtain a decree of the Court for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent and that the respondent is subject to the jurisdiction of the Court.

~~j.k.~~ After a charge has been filed and until the record has been filed in the Court of Chancery as herein provided, the

proceeding may at any time be ended by agreement between the Commissioner or the Commissioner's agent and the parties for the elimination of the alleged unlawful discriminatory practice, approved by the Commissioner or the Commissioner's agent and the Commissioner or the Commissioner's agent may at any time, upon reasonable notice, modify or set aside, in whole or in part, any finding or order made or issued by it.

~~k.l.~~ The Superior Court of the county where the violation is alleged to have occurred shall have jurisdiction to hear an appeal from any decision made by the Commissioner or the Commissioner's agent, except as provided in paragraph (22)~~j.h.~~ of this section. Such appeal shall be on the record only.

~~k.m.~~ In the event that the Court determines that the respondent has engaged in an unlawful discriminatory practice causing economic loss to the petitioner, the respondent shall reimburse or refund to the petitioner, with reasonable interest added thereto, a sum equal to the amount of the economic loss suffered by the petitioner.

Section 17. Amend § 710, Title 19, Delaware Code, by renumbering existing subsections (8)-(18) as subsections (9)-(19).

Section 18. Amend § 710(6), Title 19, Delaware Code, and insert a new §710(8), Title 19, Delaware Code by making insertions as shown by underlining as follows:

(6) "Employer" means any person employing 4 or more employees within the State at the time of the alleged violation, including the State or any political subdivision or board, department, commission or school district thereof. The term "employer" with respect to discriminatory practices based upon sexual orientation or gender identity does not include religious corporations, associations or societies whether supported, in whole or in part, by government appropriations, except where the duties of the employment or employment opportunity pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under § 511(a) of the Internal Revenue Code of 1986.

(8) "Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Section 19. Amend § 711(a)-(d) & (f)-(h), Title 19, Delaware Code, and add a new §711(l), Title 19, Delaware Code, by making insertions as shown by underlining as follows:

(a) It shall be an unlawful employment practice for an employer to:

(1) Fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin; or

(2) Limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against any individual because of race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin or to classify or refer for employment any individual on the basis of race,

marital status, genetic information, color, religion, age, sex, sexual orientation, gender identity, or national origin.

(c) It shall be an unlawful employment practice for a labor organization to:

(1) Exclude or expel from its membership or otherwise to discriminate against any individual because of race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin;

(2) Limit, segregate or classify its membership or to classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of employment opportunities or would limit such employment opportunities or otherwise adversely affect the individual's status as an employee or as an applicant for employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin; or

(3) Cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin in admission to or employment in any program established to provide apprenticeship or other training.

(f) It shall be an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discharge, refuse to hire or otherwise discriminate against any individual or applicant for employment or membership on the basis of such person's race, marital status, color, age, religion, sex, sexual orientation, gender identity, or national origin, because such person has opposed any practice prohibited by this subchapter or because such person has testified, assisted or participated in any manner in an investigation, proceeding, or hearing to enforce the provisions of this subchapter.

(g) Notwithstanding any other provision of this subchapter:

(1) It shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program on the basis of religion, genetic information, age, sex, sexual orientation, gender identity, or national origin in those certain instances where religion, genetic information, age, sex, sexual orientation, gender identity, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and

(2) It shall not be an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society or if the curriculum of such school, college, university or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(h) Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation or different terms, conditions or privileges of employment pursuant to a

bona fide seniority or merit system or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, marital status, genetic information, color, religion, age, sex, sexual orientation, gender identity, or national origin.

(1) Nothing in this subchapter shall affect the ability of an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards not precluded by other provisions of State or federal law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity.

Section 20. Amend § 5105(a)(2), Title 25, Delaware Code, by making insertions as shown by underlining as follows:

(2) The names and usual business addresses of any person who would be deemed a landlord of the unit pursuant to § 5141~~(13)~~(14) of this title.

Section 21. Amend § 5116(a), (b) & (d), Title 25, Delaware Code, by making insertions as shown by underlining as follows:

(a) No person, being an owner or agent of any real estate, house, apartment or other premises, shall refuse or decline to rent, subrent, sublease, assign or cancel any existing rental agreement to or of any tenant or any person by reason of race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, age or occupation or because the tenant or person has a child or children in the family.

(b) No person shall demand or receive a greater sum as rent for the use and occupancy of any premises because the person renting or desiring to rent the premises is of a particular race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, age or occupation or has a child or children in the family.

(d) Notwithstanding subsection (a) of this section relating to age discrimination, and consistent with federal and state fair housing acts, a landlord may make rental units available exclusively for rental by senior citizens. A senior citizen rental unit shall be available for rent solely to senior citizens, without regard to race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability or occupation of the senior citizen and without regard to whether or not the senior citizen has a dependent child or children in the residence.

Section 22. Amend § 5141, Title 25, Delaware Code, by renumbering subsections (10)-(30) as (11)-(31).

Section 23. Amend § 5141, Title 25, Delaware Code, by inserting a new subsection (10) through insertions as shown by underlining as follows:

(10) "Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Section 24. Amend § 5316(c)(10), Title 25, Delaware Code, by making insertions as shown by underlining as follows:

(10) The landlord, after being given notice of the tenant's victimization per § 5141(6) or ~~(26)~~(27) of this title, discontinues those actions prohibited by subsection (a) of this section, above.

Section 25. Amend § 5953, Title 29, Delaware Code, by making insertions as shown by underlining as follows:

No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or be in any way favored or discriminated against with respect to employment in the classified service because of political or religious opinions or affiliations, sexual orientation, gender identity, sex or race.

Section 26. Amend § 6962(d)(7)a., Title 29, Delaware Code, by making insertions as shown by underlining as follows:

a. As a condition of the awarding of any contract for public works financed in whole or in part by state appropriation, such contracts shall include the following provisions:

“During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, gender identity or national origin. The contractor will take positive steps to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting agency setting forth this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, gender identity or national origin.”

Section 27. The inclusion in this Act of the words “gender identity” is intended to ensure equal rights and not to endorse or confer legislative approval of any unlawful conduct.

Section 28. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application 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.

Section 29. This Act may be referred to as the “Gender Identity Nondiscrimination Act of 2013”.

#### SYNOPSIS

This Act adds the term “gender identity” to the already-existing list of prohibited practices of discrimination and hate crimes. As such, this Act would forbid discrimination against a person on the basis of gender identity in housing, employment, public works contracting, public accommodations, and insurance, and it would provide for increased punishment of a person who intentionally selects the victim of a crime because of the victim’s gender identity.

Author: Senator Henry

SPONSOR: Rep. B. Short

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1  
TO  
SENATE BILL NO. 97

AMEND House Bill No. 97 by deleting line 13 in its entirety and substituting in lieu thereof the following:

of the person's assigned sex at birth. Gender identity may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity; provided, however, that gender identity shall not be asserted for any improper purpose.

FURTHER AMEND House Bill No. 97 by deleting line 23 in its entirety and substituting in lieu thereof the following:

accommodation, facilities, advantages or privileges thereof. A place of public accommodation may provide reasonable accommodations based on gender identity in areas of facilities where disrobing is likely, such as locker rooms or other changing facilities, which reasonable accommodations may include a separate or private place for the use of persons whose gender-related identity, appearance or expression is different from their assigned sex at birth, provided that such reasonable accommodations are not inconsistent with the gender-related identity of such persons. For the purpose of training support animals to be used by

FURTHER AMEND House Bill No. 97 by deleting line 45 in its entirety and substituting in lieu thereof the following:

of the person's assigned sex at birth. Gender identity may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity; provided, however, that gender identity shall not be asserted for any improper purpose.

FURTHER AMEND House Bill No. 97 by deleting line 153 in its entirety and substituting in lieu thereof the following:

of the person's assigned sex at birth. Gender identity may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity; provided, however, that gender identity shall not be asserted for any improper purpose.

FURTHER AMEND House Bill No. 97 by deleting line 230 in its entirety and substituting in lieu thereof the following:

of the person's assigned sex at birth. Gender identity may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity; provided, however, that



gender identity shall not be asserted for any improper purpose.

FURTHER AMEND House Bill No. 97 by deleting line 317 in its entirety and substituting in lieu thereof the following:  
of the person's assigned sex at birth. Gender identity may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity; provided, however, that gender identity shall not be asserted for any improper purpose.

#### SYNOPSIS

This amendment clarifies that gender identity may be demonstrated by consistent and uniform assertion of the identity or other evidence that it is part of a person's core identity, and explicitly provides that places of public accommodation may provide reasonable accommodations on the basis of gender identity in areas of facilities where disrobing is likely, such as separate or private areas for the use of persons whose gender-related identity, appearance or expression is different from their assigned sex at birth.



SPONSOR: Rep. B. Short

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1

TO

HOUSE AMENDMENT NO. 1

TO

SENATE BILL NO. 97

AMEND House Amendment No. 1 to Senate Bill No. 97 at lines 1, 5, 13, 18, 23, and 28 by deleting the word "House" and substituting in lieu thereof the word "Senate".

SYNOPSIS

This amendment to the amendment corrects the references to Senate Bill No. 97, as opposed to House Bill No. 97.

# House passes gender identity bill

By Jen Rini

Delaware State News

DOVER — Gender identity legislation is one step closer to being passed in Delaware.

Senate Bill 97, which would add the term "gender identity" to the list of prohibited practices of discrimination and hate crimes in the state and effectively forbids discrimination in housing, employment, public work contracting, public accommodations and insurance, passed the state's House of Representatives by a vote

of 24-17 Tuesday. But due to the fact it was amended on the House floor, it will head back to the Senate for a vote — potentially as early as today.

House sponsor Rep. Bryon Short, D-Brandywine Hundred, introduced an amendment which clarified the definition of gender identity. It also states that places of public accommodation have the option to provide alternative accommodations for transgender individuals in areas such as locker rooms or other changing facilities.

Backed by the LGBTQ rights or-

ganization, Equality Delaware Foundation, Rep. Short said he crafted the amendment in response to the various emails and calls legislators have received from constituents concerned with individuals abusing the law to cover inappropriate actions.

"As we stand here today, it is not against the law for a man to go into a women's restroom or vice versa," Rep. Short said, though he acknowledged he thought it might be unacceptable, it is not against the law.

See Gender — Page 4

## Gender

Continued From Page 1

Mark Purpura, president of Equality Delaware Foundation, asserted that the provision is not a penalty nor criminal provision, but merely would ensure that an individual would not be able to use the defense of "gender identity" for an inappropriate purpose.

Still, lawmakers had concerns with the bill's language.

"(The word) may is my biggest concern," said Rep. Stephen Smyk, R-Milton, referencing the amended language which states: "Gender identity may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity; provided, however, that gender identity shall not be asserted for any improper purpose."

To him, the bill fails to appropriately define gender identity for transgender individuals.

"We don't have a problem but we are making a problem," he said.

Nicole Theis, president of Delaware Family Policy Council, wondered how far changing the discrimination statute will go.

"I'm saying where does it stop," Ms. Theis said.

"There's so much vagueness it doesn't take much to imagine how it could be abused."

Ms. Theis' comments struck a nerve with Rep. Michael Ramone, R-Pike Creek Valley, the only Republican lawmaker who voted for the bill. He said after reading through the amendment, he was very comfortable with the legislation, which ultimately will help a transgender person fit in and be a part of society.

"I believe this bill does a good job of enabling that," Rep. Ramone said.

Lawmakers also were concerned with the bill's effect on school districts, but Mr. Purpura explained the bill does not encompass education.

"We are amending very basic human rights," he said. "We are not amending anything in respect to school districts."

School districts would be able to adopt their own statutes to accommodate a transgender student.

To Rep. Stephanie T. Bolden, D-Wilmington, the bill is about basic fairness and equality. She shared her struggle living in times when segregated bathrooms were a reality and praised lawmakers for amending statutes to end such discrimination.

"These all came about by laws all dealing with fairness. This is about housing, this is about respect, this is about fairness," Rep. Bolden said.

If the gender identity bill passes the Senate, Delaware will be the first state to pass gender identity legislation and marriage equality legisla-

tion in a single year, Lisa Goodman of Equality Delaware said.

Staff writer Jen Rini can be reached at 741-8250 or [jrin1@newszap.com](mailto:jrin1@newszap.com). Follow DSNJen\_Rini on Twitter.

GENERAL ASSEMBLY

# Transgender bill passes House vote

Amendment returns  
measure to Senate

**By Doug Denison  
and Jonathan Starkey**

The News Journal

**DOVER** — Legislation to ban discrimination against transgender people in Delaware is on its way back to the Senate after passing the House with a friendly amendment Tuesday.

The bill passed with a 24-17 vote, after language was added to clarify how transgender people could demonstrate “gender identity” and state that a person cannot claim to be transgender in order to gain access to a opposite-sex bathroom or changing room for an “improper purpose.”

The Senate, which passed the bill with a close vote two weeks ago, must

**See HOUSE, Page B3**

# House: Tweak made to allay fears

Continued from Page B1

vote again on the amended version. Senate leader Patricia Blevins said the bill would be the first item on today's agenda at 4 p.m.

Supporters drafted the amendment to allay concerns expressed during debate on the bill, despite previously statements that they would accept no amendments to the legislation.

"We decided the amendment was helpful in clarifying the way the bill would be interpreted," said Equality Delaware President Lisa Goodman, leader of the group that drafted the legislation.

Four House Democrats voted against the bill: Millsboro Rep. John Atkins, Smyrna Rep. William Carson, Elsmere Rep. John L. Mitchell Jr. and Dover-area Rep. W. Charles Paradee.

Republican Rep. Mike Ramone cast his caucus' only vote for the bill. He said the amendment helped with his decision.

"Transgenders naturally just want to be accepted. They want to fit in. They don't want to be discriminated against," he said. "I walked up here today not exactly sure what I was going to do. I read an amendment that I think offers an immense amount of clarity."

The amendment says a person's gender identity "may be demonstrated by consistent and uniform assertion," but it does not require a transgender person to prove opposite-gender identity to be protected from discrimina-

tion. It also says businesses and institutions are allowed, but not required, to offer "reasonable accommodations" for transgender people in "places where disrobing is likely."

Opponents continued to warn of unintended consequences, including possible liability for state agencies that manage public facilities.

"There's a lot of different pieces here we are not addressing that may in fact create a demand for some of our state facilities that we fund directly or indirectly," said Rep. Joe Miro, R-Pike Creek.

The Senate also unanimously passed legislation Tuesday that attempts to protect from prosecution those who summon help during an overdose involving drugs and alcohol.

Senators voted after the sponsors attached an amendment that would not protect anyone from prosecution who was caught committing the most serious drug offenses, including drug dealing charges that would be prosecuted under Class A, B or C felony charges.

The bill heads to the House for consideration, with just less than two weeks left in the current legislative session.

Contact Doug Denison at 678-4271, on Twitter @DoverDelDenison or ddenison@delawareonline.com.

Contact Jonathan Starkey at 983-6756, on Twitter @jwstarkey or at jstarkey@delawareonline.com.

## **Substantial Completion EMS #106**

Project name        EMS #106 Long Neck Paramedic Station

Contract # 12-19

Bid date: November 7, 2012

Lower bidder /bid amount: Willow Construction / \$478,950.00

One change order (CO#1) \$840.00 has been approved; a second credit change order in the amount of \$2,150 is also proposed.

Total Contract \$479,790.00

**Anticipated revised cost \$477,640.00**

Notice of Award: November 13, 2013

Notice to Proceed: January 7, 2013

Substantial Completion: May 31, 2013

Warranty dates: May 31, 2013 through May 31, 2014

Final balancing CO: TBD

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### GENERAL NOTES:

A small punch list of repair and completion items will be completed within the 60-day conditional acceptance period. Record Drawings are being reviewed to finalize and balance all quantities used to construct the project.

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**Sussex County  
Engineering Department**

MICHAEL A. IZZO, P.E.  
County Engineer

JAMES A. HICKIN  
Airport Manager




P.O. BOX 589  
GEORGETOWN, DELAWARE 19947  
Administration 302-855-7718  
Airport & Industrial Park 302-855-7774  
Environmental Services 302-855-7730  
Public Works 302-855-7703  
Utility Engineering 302-855-7717  
Utility Permits 302-855-7719  
Utility Planning 302-855-1299  
Airport Fax: 302-855-7773

**MEMORANDUM**

**TO:** **Sussex County Council**

**THROUGH:** Todd Lawson  
County Administrator

**FROM:** Jim Hickin, A.A.E.   
Airport & Industrial Park

**RE:** **PROPOSED CONSTRUCTION CONTRACT AWARD**

**DATE:** June 19, 2013

I am on the Council agenda June 25<sup>th</sup> to propose the award of a construction contract to George & Lynch, Inc. for our 500' runway extension project.

The project will mill and pave the existing 5,000 feet of Runway 4-22, along with grooving and restriping of the new surface. The project also includes the completion of the Medium Intensity Approach Lighting System (MALS) begun during Package 1.

Bids were opened June 12, 2013. There were two bidders and George & Lynch was the low bidder at \$4,457,947.00. The engineer's estimate was \$3,660,000.00. The difference can be attributed to higher than expected costs for the MALS, a solar powered obstruction light, and the airfield lighting control system.

Our airport consultant, Urban Engineers, has analyzed the bids and recommends award to George & Lynch. I'm proposing award of this bid be contingent on the receipt of an FAA grant for the project, to keep the project moving.

Please call me at 855-7775 if you have any questions.

cc: Michael A. Izzo, P.E., Director  
Engineering Dept.



## **EXTEND RUNWAY 4-22 – PACKAGE 2**

**Project No. 12-07  
Bid Results**

**BID OPENING – June 12, 2013**

	<b>BIDDER</b>	<b>Total Bid</b>
<b>1.</b>	<b>George &amp; Lynch, Inc. Dover, DE</b>	<b>\$4,457,947.00</b>
<b>2.</b>	Lagan Virginia, LLC Woodbridge, VA	\$5,271,125.00
	<b>ENGINEER'S ESTIMATE</b>	<b>\$3,660,00.00</b>

## PROJECT FACT SHEET

Project name    South Coastal Regional Wastewater Facilities  
                     Pump Station #30 Forcemain

Funded by: USDA Rural Utility Service and Department of Natural Resources Water Resources,  
                 including American Recovery and Reinvestment Act funds.

Contract # 10-03

Bid date:    August 3, 2011

Low bidder /bid amount: Bunting and Murray Construction/    \$3,296,100.00

Notice of Award:    September 27, 2011

Notice to Proceed: March 1, 2012

Substantial Completion:    May 17, 2013

Warranty dates: July 16, 2013 through July 15, 2014

Final balancing CO: TBD

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### GENERAL NOTES:

A small punch list of restoration items will be completed within the 30-day conditional acceptance period. Record Drawings are being reviewed to finalize and balance all quantities used to construct the project.

## PROJECT FACT SHEET

Project name Renovations to the Sussex County Annex Building

Funded by: Sussex County

Contract # 12-20

Bid date: December 19, 2012

Low bidder /bid amount: John L Briggs & Co. /\$75,230.00

Notice of Award: January 8, 2013

Notice to Proceed: January 31, 2013

Substantial Completion: May 31, 2014

Warranty dates: May 31 , 2013 through May 30, 2014

Final balancing CO: TBD

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### GENERAL NOTES:

A small punch list of restoration items will be completed within the 60-day conditional acceptance period.

**FINE BAR SCREEN AND TRANSPACTOR SHAFTLESS  
SPIRAL CONVEYOR COMPACTOR FOR THE  
SOUTH COASTAL REGIONAL WASTEWATER FACILITY  
SUSSEX COUNTY PROJECT 12-31  
BID OPENING JUNE 14, 2013**

<b>BIDDER</b>	<b>FINE BAR SCREEN</b>	<b>COMPACTOR</b>	<b>BID AMOUNT</b>
<b>JWC Environmental Costa Mesa, CA</b>	<b>\$99,780.00</b>	<b>\$44,000.00</b>	<b>\$ 143,780.00</b>
Headworks, Inc. Houston, TX	\$95,098.00	\$60,639.00	\$ 155,737.00
Engineers Estimate			\$187,000.00

**Pump Station No. 24 Modifications**  
**Contract No. 12-15**  
**Bid Results**

**BID OPENING – June 13, 2013**

	<b>BIDDER</b>	<b>Base Bid</b>
<b>1.</b>	<b>Kuhn Construction Hockessin, DE</b>	<b>\$448,187.00</b>
2.	Johnston Construction Dover, PA	\$494,505.00
3.	JJID Bear, DE	\$532,000.00
4.	Hopkins Construction Bridgeville, DE	\$567,300.00
	<b>Engineers Estimate</b>	<b>\$403,075.00</b>

*Sussex County*  
*Engineering Department*

MICHAEL A. IZZO, P.E, County Engineer  
JOSEPH WRIGHT, P.E., Assistant County Engineer



2 THE CIRCLE  
P.O. BOX 589  
GEORGETOWN, DE 19947

Administration	302-855-7718
Environmental Services	302-855-7730
Public Works	302-855-7703
Utility Engineering	302-855-7717
Utility Permits	302-855-7719
Utility Planning	302-855-1299
FAX:	302-855-7799

**PINE STREET PARKING FACILITY  
SUSSEX COUNTY PROJECT 12-24  
BID RESULTS**

BIDDER	TOTAL BID
<b>*THOMPSON &amp; SONS CONTRACTING, LLC MILFORD, DELAWARE</b>	<b>\$117,585.00 Recommended Bid Award</b>
MITTEN CONSTRUCTION CO. DOVER, DELAWARE	\$134,184.00
JERRY'S INC. MILFORD, DELAWARE	\$139,221.00
JOHN L. BRIGGS & CO. GEORGETOWN, DELAWARE	\$142,673.77
GEORGE & LYNCH, INC. DOVER, DELAWARE	\$154,399.16
GATEWAY CONSTRUCTION, INC. DOVER, DELAWARE	\$164,675.00
ENGINEER'S ESTIMATE	\$129,570.00

\* APPARENT LOW BIDDER

## OLD BUSINESS

June 25, 2013

This is to certify that on April 25, 2013 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Conditional Use. At the conclusion of the public hearing, the Commission moved and passed that this application be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING  
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank  
Director of Planning and Zoning

The attached comments relating to the public hearing are findings of the Planning and Zoning Commission based on a summary of comments read into the record, and comments stated by interested parties during the public hearing.

**Conditional Use #1962** – application of **CHESAPEAKE AGRISOIL, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a composting facility as an extension to Conditional Use No. 1314 and Conditional Use No. 1691 (A micro-nutrient plant with related truck entrance and rail spur for processing and handling of poultry litter), to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 228.88 acres, more or less, lying west of Route 13A north of Road 485 (Tax Map I.D. 1-32-6.00-88.01 and 95.00 and Tax Map I.D. 1-32-11.00-41.00).

Mr. Ross stated that he would not be participating in this public hearing.

The Commission found that on April 10, 2013 the Applicant submitted Exhibit Booklets for consideration, and that the Booklets contains a copy of the application form; a letter from Perdue Agribusiness, LLC in support; references to compliance with the Comprehensive Plan Update; an aerial photograph of the site and area; a February 21, 2013 letter from DelDOT in reference to the entrance location; a project description for the proposed poultry waste compost facility; a series of site plans; documentation on the Gore Cover System; a copy of the response to the PLUS comments from Axiom Engineering, LLC, dated April 12, 2013; a copy of the PLUS comments, dated December 20, 2012; a copy of Ordinance No. 1354 for Conditional Use No. 1314 for Perdue-AgriRecycle, LLC for the original Micro-Nutrient Plant with related truck entrance and rail spur; a copy of Ordinance No. 1865 for Conditional Use No. 1691 to amend the conditions of approval for Conditional Use No. 1314; and suggested proposed Findings of Facts.

The Commission found that on April 16, 2013 the Sussex Conservation District provided comments in the form of a memorandum which references that there are 17 soil types on this

property; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it is not likely that any off-site drainage improvements will be required; and that it is possible that on-site drainage improvements will be required.

The Commission found that on April 22, 2013 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum which references that that site is located in the Western Sussex Planning Area #3 and Blades Planning Area #2; that an on-site septic system will be utilized; that the parcel is not in an area where the County has a schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that Shannon Carmean-Burton, Attorney, and John Sergovic, Attorney, of Sergovic, Carmean and Weidman, P.A., Ken Christenbury, Professional Engineer with Axiom Engineering, LLC, Whitney Hall, Professional Engineer, Wayne Hudson of Perdue Agri-Recycle, LLC, and Charlie Gifford of Chesapeake AgriSoil, LLC were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this proposed use will occupy approximately 20 acres of the 228.88 acre site; that the 20 acre portion is contained within Tax Map I.D. 1-32-11.00 Parcel 41,00; that the site is immediately adjacent to the plant; that the existing wooded buffers will remain; that the site is being cleared to eliminate young seedlings and tree growth; that no clearing will occur beyond the railroad spur; that the original conditions for the micro-nutrient plant, as amended in 2006, will remain with the exception of the use of this facility; that DelDOT voiced no objections; that DNREC approvals are required and will be obtained; that they will be handling 110,000 tons of material; that this use is an alternative to land application; that the EPA supports the use of animal waste composting; that lab testing of stock prior to process and the final product will be performed; that the use is a natural process; that the only additive is air; that the process starts in an enclosed building where the mixing process starts; that the material is then hauled outdoors onto the site and then covered with Gore material; that the material remains covered for approximately four (4) weeks (1<sup>st</sup> Phase); then the covers are removed for two (2) weeks (2<sup>nd</sup> Phase) which establishes the compost product; then air is blown into the system for six (6) to eight (8) weeks improving the soil compost to a high quality (3<sup>rd</sup> Phase); that the 1<sup>st</sup> Phase will have 15 cover systems, the 2<sup>nd</sup> Phase will have 8 cover systems, and the 3<sup>rd</sup> Phase will have 19 cover systems; that the final product is then removed, placed in trucks, and hauled away; that the Gore System covers odors and does not allow rain water to get into the system; that the water runoff on-site is recycled; that aeration trenches are proposed under each cover system; that the technology is well proven; that there are many projects throughout the United States and Worldwide that use this technology; that the final product is very light in weight and will improve soil quality; that Perdue Agri-Recycle, LLC supports the proposed facility since processed water from the Plant would be utilized in this process rather than having to haul the processed water off-site for land application; that according to DelDOT there will not be any traffic impact; that there is a substantial distance from the site of the proposed facility to the nearest dwelling on other property; that they have met with the Sussex Conservation District and have been advised that permits and approvals will be required; that Best Management Practices will be utilized; that the proposed project is very environmentally responsible; that water will be re-cycled on-site; that the micro-nutrient plant does not process dead-birds; that the finished



product will be hauled away by truck to farm fields, landscapers, and possibly some large providers of bagged mulch/compost products; that the operation will be carried on during one daytime shift from 7:00 a.m. to 5:00 p.m. weekdays only; that water can be provided to control any dust; that the intended 20 acre area for the facility includes the stormwater management pond; that they may utilize dead-birds in a catastrophic emergency situation; that they anticipate 11 full-time employees, and assume approximately eight (8) secondary related service jobs; that they will most likely be using independent haulers; that the purpose of the AR-1 includes references to provide for a full range of agricultural activities and to protect agricultural lands, and should also protect established agricultural operations and activities; that the permitted conditional uses in the AR-1 District include agricultural related activities; that the use is of a public or semi-public character in that it provides an innovative but environmentally sound method of disposing of poultry waste in a commercially reasonable manner and will decrease the amount of pollution and odor from poultry waste previously applied directly to the soils as a fertilizer; that the proposed use will provide community wide benefits and the ability to recycle a by-product of the poultry industry utilizing the latest Gore technology; that due to the need for enhancing the ability of the poultry industry to protect the local environment, the proposed conditional use is an appropriate zoning method for permitting the use; thus, the proposed conditional use complies with the Zoning Code; that the Applicant submits that this project is consistent with the provisions of the Comprehensive Plan which identifies the property in a Low Density Area; that the Plan provides that all land designated in the Low Density Area are currently zoned AR-1; that Plan provides that the primary uses envisioned in Low Density Areas are agricultural activities and single family detached homes; that industrial uses that support or depend on agriculture should be permitted; that the Gore system proposed to be utilized uses positive aeration and a specially designed cover to create an enclosed system that optimizes the recycling process, controls odors and micro-organisms, separates leachate from storm water and creates a consistent product unaffected by outside environmental conditions; that the use is designed to benefit the family farm and agricultural industry, especially poultry growers, in the County; that the application meets the purpose and goal of the Plan and is for the purpose of promoting the health, safety, moral, convenience, order and prosperity and welfare of the present and future inhabitants of the County; and that Tab 15 of the Exhibit Booklet contains suggested reasons and suggested conditions of approval for consideration.

The Commission found that Doug Parham, a resident of Millsboro, was present on behalf of the Inland Bays Foundation as a Board Member and Chair of the Public Information Committee, and stated that the Foundation strongly supports the approval of this application for implementation of their State-of-the-Art composting facility; that the Board has reviewed their design documents and fully support this project; that the Foundation's philosophy is to find initiatives that will reduce the amount of nutrient pollution entering the Inland Bays by supporting existing low cost (to the taxpayers) and low risk processes that produce new revenues and new green jobs for Sussex taxpayers; that this initiative will do both; that the State passed a law a few years ago prohibiting anyone from placing yard waste in public landfills; that the State has significant excess amounts of chicken litter that needs to be disposed of; that this composting initiative is an excellent solution for disposal of yard waste, the reduction of litter applied to our fields, new revenue for farmers, new green jobs and a reduction of nutrient pollution entering the Bays; that it is a low risk and no cost to the taxpayers; that we have a big job ahead of us to return the

waters to the pristine condition they were in when he grew up here and we need to find ways to grow the economy and find new jobs for our children and grandchildren; that the composting initiative is an elegant start; and that the Foundation strongly urges approval of this application.

The Commission found that Mr. Parham read a letter from Ed Kee, Secretary of the State of Delaware Department of Agriculture in support of this application, which in summary references that agriculture is the backbone of the Delaware economy and that the State is constantly looking for ways to improve the competitive advantage of the farmers in both national and international markets; that the State is committed to cleaning up Delaware's waterways, most of which are impaired to some degree with unhealthy levels of nitrogen, phosphorus, bacteria, and other pollutants; that the Department is working closely with DNREC to help local governments, industry, farmers and residential communities do their part to ensure that all waterways are safe, swimmable, fishable, and even drinkable; that one promising opportunity to both increase the competitiveness of our agriculture industry and simultaneously reduce the quantity of nutrients entering the waterways is to more effectively handle poultry waste, which often has high nutrient content, and converting it into compost products that can be beneficially-used in an environmentally responsible manner; that this project proposed by Chesapeake Agrisoil has this potential; that the project proposed will require multiple State permits from DNREC, including a Beneficial Use Determination, prior to operations, and this letter in no way pre-judges those applications; however, the project holds promise and we look forward to working with the company to ensure that the project meets regulatory standards and contributes to our water quality goals; that the Department is supportive of this application; that the Department also encourages the company to avoid impacts on the wetlands and the forested parts of the site and to enhance these natural resources on the parcel that have the potential to further improve water quality and provide wildlife habitat.

The Commission found that James Hodges, Bonnie Willey, William Mitan, and Larry Brice were present in opposition to this application and expressed concerns about the size of the project and the closeness to the dwellings in the area along O'Neal Road; water quality concerns; odor concerns; that the facility will be outdoors and not indoors like the micro-nutrient plant; concerns about diseases and bacteria; increases in truck traffic; that no lots have been sold in the area since 1999; that people with allergies are impacted by the odors and air pollution; concerns about ground water contamination; concerns about the lack of buffering, since the current buildings and lighting are visible from off-site; noise concerns, especially loading, unloading, shipping and receiving; questioning where the litter comes from, local or out of State; and water runoff.

The Commission found that Mr. Hudson and Mr. Hall responding to the Commission that no arsenic is used or found in their products, to date; that the process water is currently being applied to farm fields; that all materials are tested by DNREC; that the use of the Gore System will help eliminate most odors; that trucks are covered when entering the site; that they anticipate 10 or 12 trucks per day hauling litter; that DNREC has regulations that relate to odors; that DNREC would permit the use on the site without the asphalt pads; that they feel that the use of the asphalt pads will provide more protection; that they have no objection to planting a buffer around the site; that a berm has already been established with trees planted; that DNREC has not violated the micro-nutrient plant for odors; that DNREC does annual visits to inspect the site;

that they encourage the neighbors to contact them with any concerns, questions, or for tour of the plant and processes; that the neighbors can contact Steven Lester, Plant Manager at (302) 628-2390 with any questions; and that the litter materials come from the Delmarva Peninsula.

At the conclusion of the public hearings, the Commission discussed this application.

On April 25, 2013 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 4 – 0, with Mr. Ross abstaining since he did not participate in the public hearing.

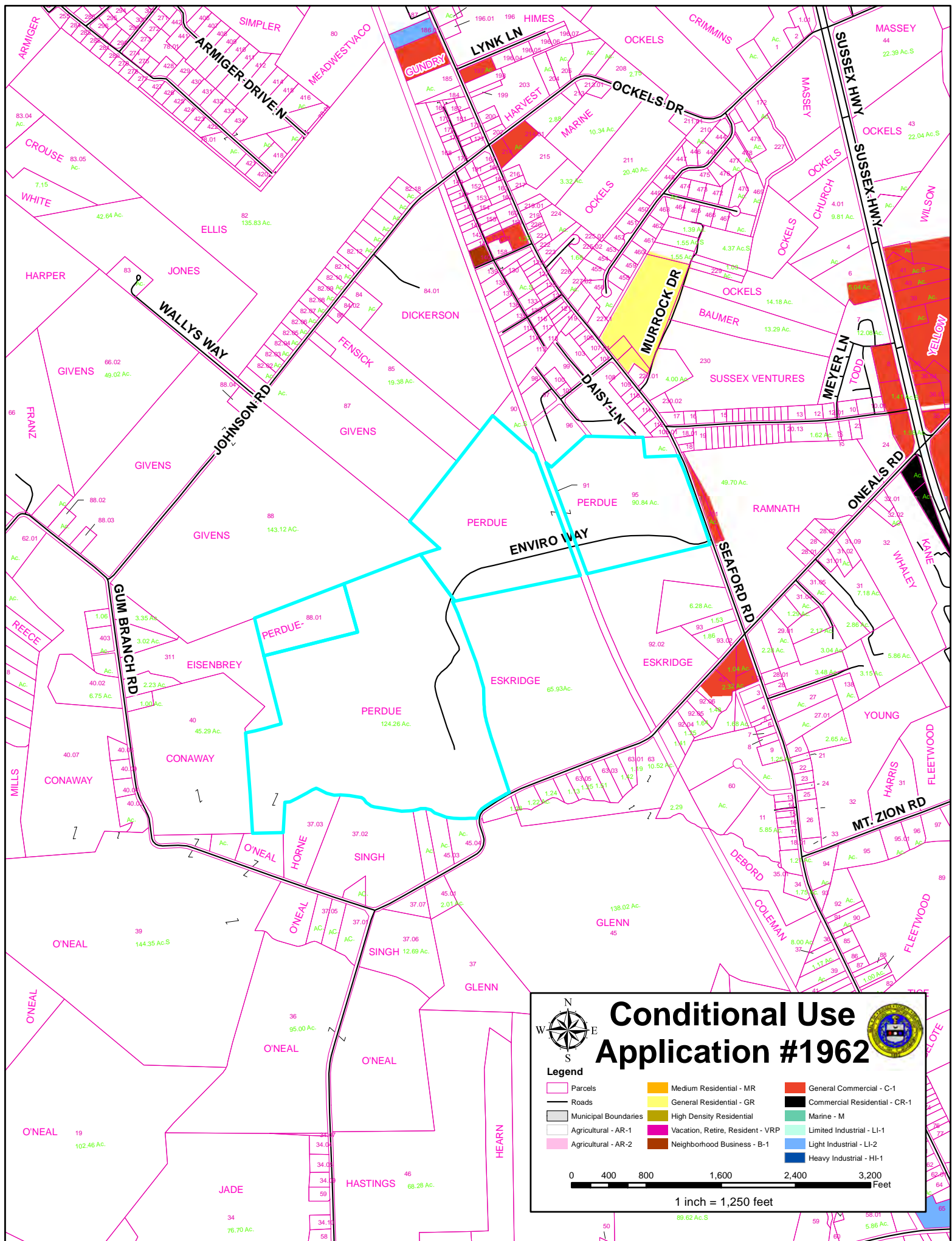
On May 23, 2013 the Commission discussed this application under Old Business.

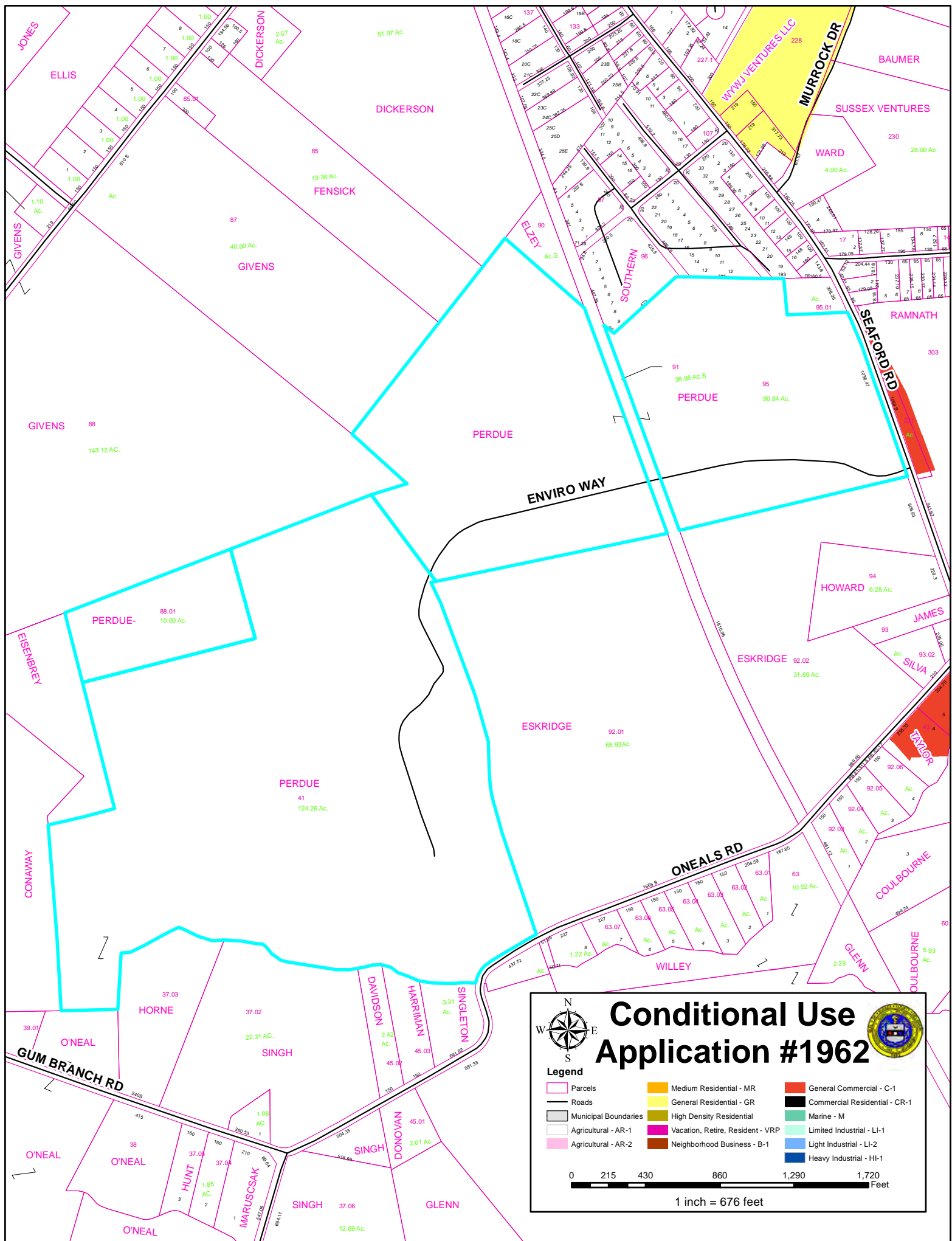
Mr. Smith stated that he would move that the Commission recommend approval of Conditional Use #1962 for Chesapeake Agrisoil, LLC for a composting facility based on the record made at the public hearing and for the following reasons:

1. This is an extension of existing Conditional Uses approved by Sussex County. Conditional Uses #1314 and #1691 were for a micro-nutrient plant with related truck entrances and a rail spur for the processing and handling of poultry litter. This is a reasonable change to the existing uses and a reasonable expansion to the overall site.
2. The proposed site is adjacent to the existing micro-nutrient plant that is operated by Perdue Agrisoil, LLC. The proposal is consistent with this adjacent use.
3. The proposed use will have a positive economic impact on Sussex County and its residents, with full-time employees on the site, and additional equipment and hauling services that are necessary for the operation of the facility.
4. The application is supported by the Inland Bays Foundation.
5. The Secretary of the Delaware Department of Agriculture supports the project.
6. The use is consistent with the underlying AR-1 Agricultural Zoning, and the rural agricultural uses that exist in the vicinity of the site.
7. The proposed use will be a benefit to agriculture in Sussex County, as well as the Delmarva Peninsula, as an efficient means to eliminate a potential source of excess nitrates and phosphates from area soils. It also provides an innovative but environmentally sensitive method of handling poultry waste products and produces an end-product that can be beneficially used in an environmentally responsible manner.
8. This use promotes the goals of the Sussex County Comprehensive Plan by enhancing the environmental quality of Sussex County. It is also a use which has a public or semi-public character that is essential and desirable to the general convenience and welfare of Sussex County and its residents.
9. This recommendation for approval, however, is subject to the following conditions:
  - a. The conditions of previously approved CU #1314 and #1691 are unchanged by this approval, unless specifically modified herein.
  - b. The use shall be strictly limited to the improvements shown on the April 11, 2013 Site Plan proposed by Axiom Engineering, LLC. Any future additions, alterations or improvements to the Site Plan shall be subject to an application and public hearing to amend this Conditional Use.
  - c. Any rail cars accessing the site shall be cleaned at an off-site location.

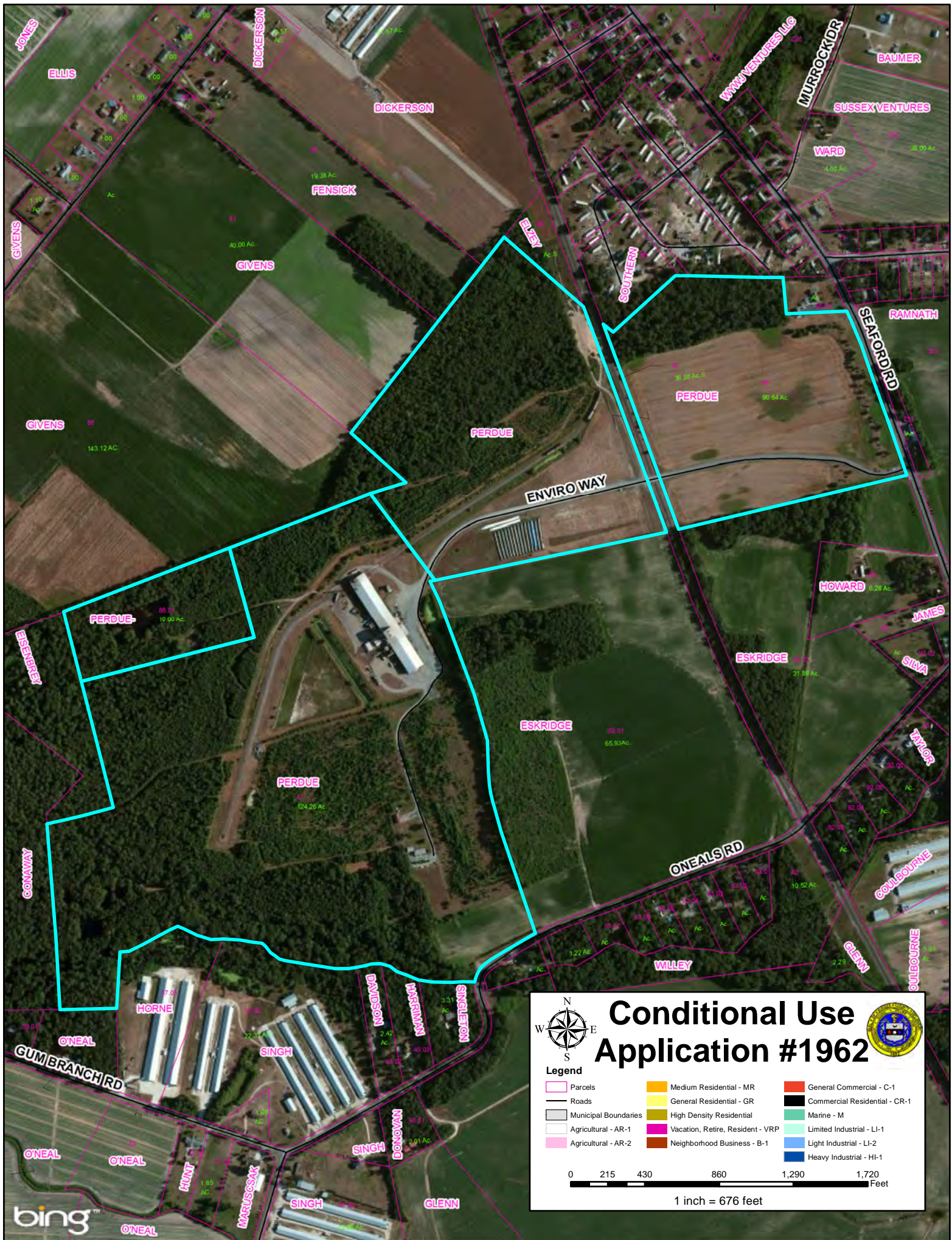
- d. The noise and odor emissions from the operations of the composting facility shall not exceed minimum standards established by D.N.R.E.C. or any other agency having jurisdiction over the project. The odors shall be controlled by negative air pressure in the receiving building and a bio filter and by the Gore Cover System.
- e. The lands on the Site Plan surrounding the composting facility shall remain wooded north of the truck entrance. The location of all wooded, vegetative and buffer areas shall be shown on the Final Site Plan.
- f. As proposed by the Applicant, all wooded areas outside of the approximately 20 acre project area shall remain as woodlands. Cut-over woodlands shall be allowed to mature.
- g. Any lighting on the site shall be downward screened so that it does not illuminate neighboring properties or roadways.
- h. All trucks entering the site must be covered.
- i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission

Motion by Mr. Smith, seconded by Mr. Johnson, and carried 4 votes to none, with Mr. Ross not participating, to forward this application to the Sussex County Council with the recommendation that it be approved for the reasons, and with the conditions stated. Motion carried 4 – 0.













8-29-13

March of Dimes Foundation

March of Dimes Delaware  
5620 Kirkwood Highway  
Wilmington, DE 19808

[marchofdimes.com/delaware](http://marchofdimes.com/delaware)

The Honorable Michael H. Vincent  
Sussex County Council  
2 The Circle  
PO Box 589  
Georgetown, DE 19947

Dear Honorable Vincent:

We are excited to announce that the second annual **The Farmer and the Chef South** will be Thursday, August 29 at Baywood Greens in Long Neck. Last year's event was a huge success with 14 restaurants and 14 farmers from Sussex County participating. Approximately 200 guests enjoyed the delicious pairings.

The primary focus of the event is to pair Sussex Farmers with Sussex Chefs to help them develop sustainable relationships long after the event. We continue to work with Ellen Magee of Magee Farms and the Delaware Department of Agriculture to plan and execute the event. Throughout the planning, promotion and the actual event, one of our goals is to support the Sussex County economy by introducing event participants to the wonderful restaurants and local farm products that Sussex County has to offer.

We so much appreciate your \$500 support for 2012 and would love to have you join us for 2013. We hope you will consider our Gold level with each council member supporting the event at the \$500 level to make a combined contribution of \$2,500. I have attached the sponsorship information for your review. Please feel free to reach out to me if you have questions about the event.

Sincerely,

Pam Armstrong  
Sr. Community Director  
March of Dimes/Delaware

cc: Ellen Magee

march  of dimes®



# LAUREL SCHOOL DISTRICT

District Office

1160 S. Central Avenue

Laurel, Delaware 19956 • (302) 875-6100 Fax (302) 875-6106



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***Excellence: Believe It ... Achieve It!***

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June 17, 2013

Dear Council President Vincent,

I am writing on behalf of the Laurel High School Varsity Softball Team in an attempt to try and raise money to purchase state championship jackets. In order for us to celebrate the success of these girls, we could use your financial support. The girls on the 2013 Laurel Varsity Softball Team are the first girls in the history of the Laurel School District to bring home a state title. We would like to honor these girls with something special to celebrate their accomplishment and I would appreciate any financial assistance you can offer. Checks could be made out to Laurel High School with softball in the memo and could be mailed to Laurel High School, 1133 S. Central Avenue, Laurel, DE. 19956. Thank you for your consideration.

Respectfully yours,

A handwritten signature in cursive script that reads "Jodi Green". The ink is dark and the signature is fluid.

Jodi Green

Laurel High School Softball Coach

443.880.3609

THE LAUREL SCHOOL DISTRICT IS AN EQUAL OPPORTUNITY EMPLOYER AND DOES NOT DISCRIMINATE OR DENY SERVICES ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, SEXUAL ORIENTATION, HANDICAP, AND/OR AGE IN ITS PROGRAMS AND ACTIVITIES. THE DISTRICT OFFERS ADDITIONAL SERVICES TO STUDENTS WITH LIMITED ENGLISH LANGUAGE SKILLS OR WITH DISABILITIES SO THAT THEY MAY BENEFIT FROM THESE PROGRAMS. FOR ADDITIONAL INFORMATION AND ASSISTANCE, PLEASE CONTACT:

SEX DISCRIMINATION / TITLE IX  
SUPERINTENDENT  
1160 SOUTH CENTRAL AVENUE  
LAUREL, DE 19956  
(302) 875-6100

SPECIAL EDUCATION / SECTION 504  
DIRECTOR OF SPECIAL SERVICES  
1160 SOUTH CENTRAL AVENUE  
LAUREL, DE 19956  
(302) 875-6100

DISTRICT PROGRAMS  
SUPERVISOR OF CURRICULUM  
1160 SOUTH CENTRAL AVENUE  
LAUREL, DE 19956  
(302) 875-6100



June 8, 2013

Dear Friends,

For over 15 years, the River Soccer Club has been providing instructional and competitive soccer programs for boys and girls from our Delaware and Maryland coastal communities. On June 6, one of the club's competitive travel teams, the under-15 *RSC Express*, achieved the highest honor in the state by winning the 2013 Delaware State Cup Soccer Championship. By winning the State Cup, our boys have earned the right to represent the club and the state at the Region I Championships from June 27 thru July 2 in Kingston, Rhode Island. Having the opportunity to compete in Regionals is very exciting for our players.

In less than three weeks, the *Express* will play against other teams from our region, some of which are among the best teams in the nation at our age group. Making this trip, though, will be a very expensive proposition for our players and their families. With a required three-night minimum housing commitment, hotel expenses alone will cost our team more than \$6500. To help defray the cost to our players, we are turning to you and other members of our community for assistance.

We are requesting your sponsorship of one of the *Express* players in the amount of \$500. Each \$500 donation will help cover hotel and travel expenses for one player, and our ultimate goal would be to have all 18 *Express* players receive a sponsorship. A donation in any amount will greatly benefit our players, and all donations are tax deductible, as the River Soccer Club is an IRS 501 (C) (3). (Federal ID# 51-0377913)

Checks may be made out to River Soccer Club (MEMO: *RSC Express*) and should be mailed to:

River Soccer Club  
Attn: *RSC Express*  
P.O. Box 1366  
Ocean View, DE 19970

Our players have worked very hard to earn a State Championship. They have proudly worn the River badge on their shirts and will proudly represent the club and the entire community at Regionals in Rhode Island.

We greatly appreciate any financial support that you can provide.

Sincerely,

Duncan Smith  
Head Coach  
U15 River Soccer Club *Express*  
2013 Delaware State Champions

PUBLIC HEARINGS  
June 25, 2013

This is to certify that on June 13, 2013 the Sussex County Planning and Zoning Commission conducted a public hearing on this application for Change of Zone. At the conclusion of the public hearing, the Commission moved and passed that this application be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING  
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank  
Director of Planning and Zoning

The attached comments relating to the public hearing are findings of the Planning and Zoning Commission based on a summary of comments read into the record, and comments stated by interested parties during the public hearing.

**Change of Zone #1730 Two Farms, Inc.**

Application of **TWO FARMS, INC.** to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District and a C-1 General Commercial District to a CR-1 Commercial Residential District, to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 9.4596 acres, more or less, lying southeast corner of U.S. Route 13 and Route 24 (Tax Map I.D. 3-32-1.00-100.00 & 101.00).

The Commission found that DelDOT provided comments on March 14, 2013 referencing that the Department would normally recommend that a traffic impact study be completed before any decision is made on a rezoning application; that a traffic impact study had already been performed by the Applicant's engineer, and has been reviewed by the Department; and that based on that review, the Department recommends that the County proceed in processing this rezoning application.

The Commission found that on June 7, 2013 the Sussex County Engineering Department Utility Planning Division provided a memorandum referencing that this site is located within the Western Sussex – Laurel Growth Area; that an on-site septic system is proposed at this time; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Garth Jones, Professional Engineer with the Becker Morgan Group, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that they have received preliminary approval for the site

plan for Conditional Use No. 1927; that the Commission and the Sussex County Council suggested that they should have considered applying for rezoning when they received approval for Conditional Use No. 1927; that the small corner portion of the site is zoned C-1 General Commercial and the remaining acreage is zoned AR-1 Agricultural Residential; that the C-1 portion is improved with a repair shop; that the AR-1 portion is improved with an auction facility; that the parcels have recently been combined into one parcel; that they are planning on constructing a new Royal Farm Convenience Store and gasoline islands on the site; that the auction facility will continue to be operated; that they are ready to submit for final approval of the site plan; that the site is in close proximity to other commercial zoning and uses, and industrial zoning; that the site is located in a growth area for the Town of Laurel; that the State Strategies indicate that the site is located in an Investment Level 2; that there should be no negative impacts on property values or the community; and that all conditions for Conditional Use No. 1927 have been met or have been approved as amended.

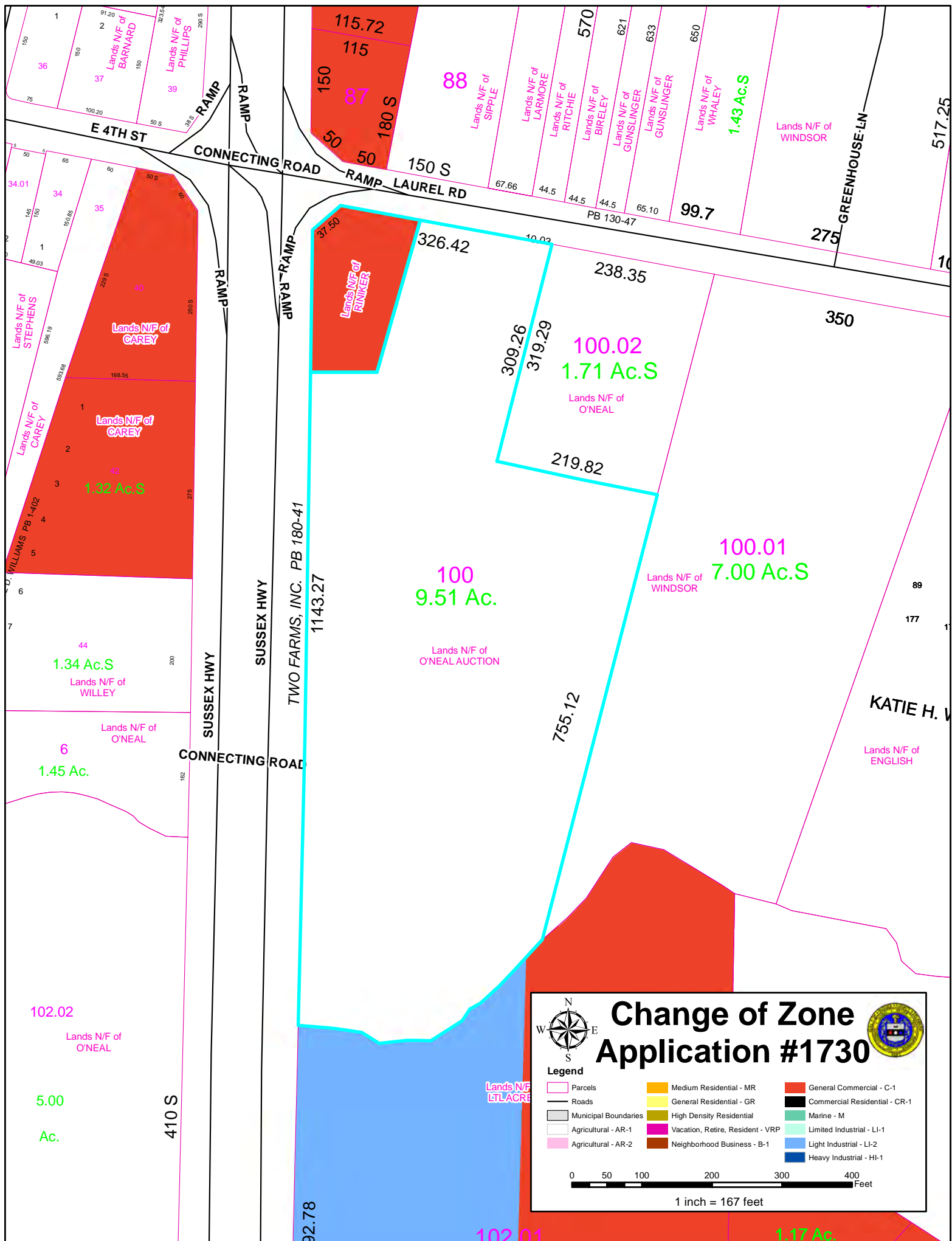
The Commission found that there were no parties present in support of or in opposition to this application.

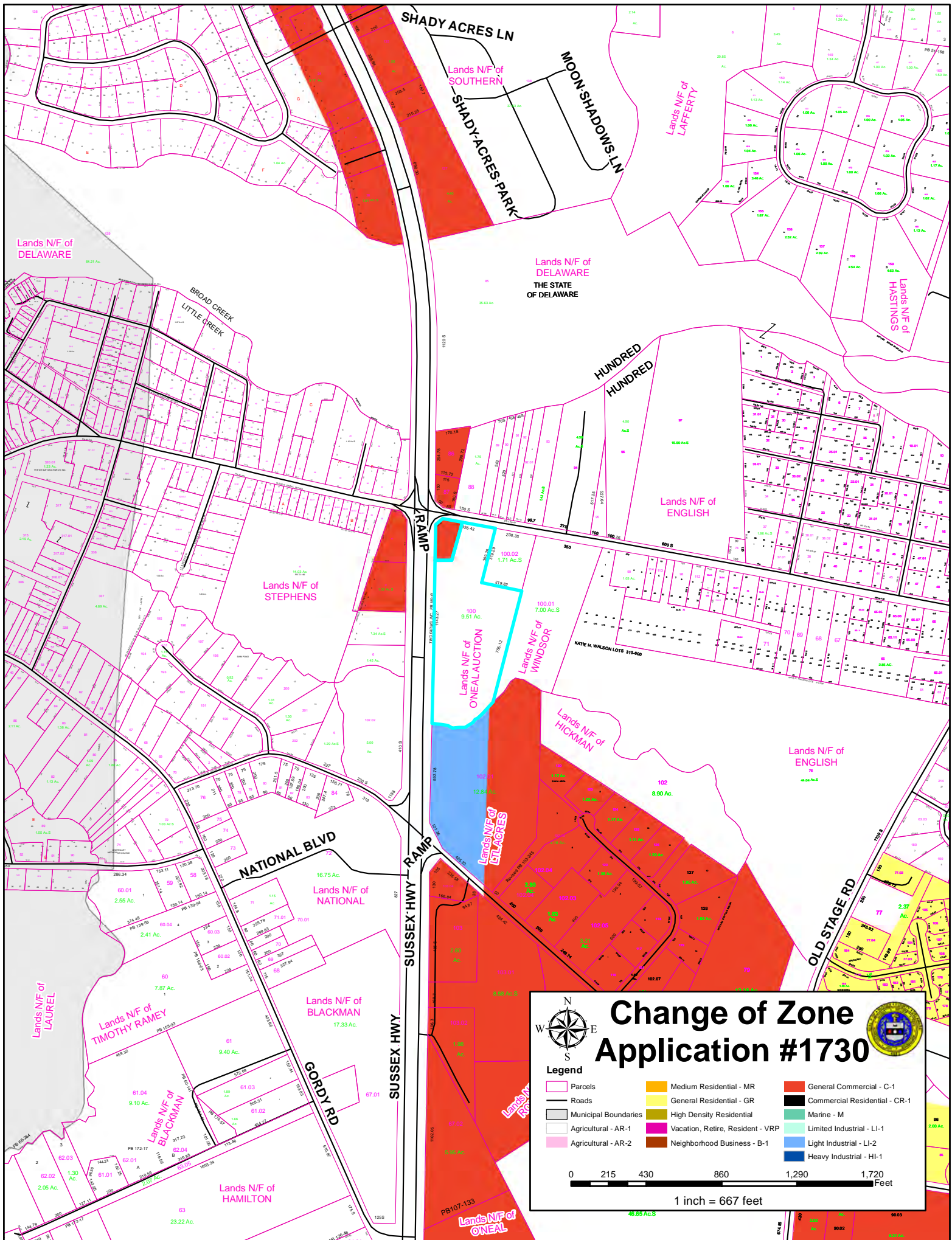
At the conclusion of the public hearing, the Commission discussed this application.


Mr. Ross stated that he would move that the Commission recommend approval of Change of Zone No. 1730 for Two Farms, Inc. for a change of zone from AR-1 Agricultural Residential and C-1 General Commercial to CR-1 Commercial Residential based upon the record made during the public hearing and for the following reasons:

- 1) This application consolidates the entire subject property into one consistent zoning district.
- 2) This entire property has historically been used for commercial purposes.
- 3) CR-1 Commercial Residential zoning for this site is appropriate given its location at the intersection of U.S. Route 13 and Delaware Route 24. There are also other commercially and industrially zoned properties in the area of the intersection.
- 4) The location is in a Developing Area according to the Sussex County Comprehensive Plan.
- 5) The site currently has a commercial site plan that was preliminarily approved by the Commission. At the time of that approval, the Commission suggested that uniform CR-1 zoning for this entire site would be appropriate.
- 6) The rezoning will have no adverse impact on neighboring properties, roadways, public facilities or the community.

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 5 – 0.
























W  
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S

# Change of Zone Application #1730



**Legend**

 Parcels	 Medium Residential - MR	 General Commercial - C-1
 Roads	 General Residential - GR	 Commercial Residential - CR-1
 Municipal Boundaries	 High Density Residential	 Marine - M
 Agricultural - AR-1	 Vacation, Retire, Resident - VRP	 Limited Industrial - LI-1
 Agricultural - AR-2	 Neighborhood Business - B-1	 Light Industrial - LI-2
		 Heavy Industrial - HI-1

0 215 430 860 1,290 1,720 Feet

1 inch = 667 feet



