

LAWS OF DELAWARE
VOLUME 84
CHAPTER 357
152nd GENERAL ASSEMBLY
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 247

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MANUFACTURED HOUSING.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 70, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7003. Definitions.

For purposes of this chapter:

() “DMHOA” means the Delaware Manufactured Homeowners’ Association.

() “Official notice of an unsafe condition” means a citation, charge, indictment, notice of violation or similar notice, or a finding of fact or conclusion of law issued by any court, administrative agency, county, or municipality that a violation of a requirement under this chapter or of federal, state, county, or municipal law or regulation, which relates to water, sewer, or utilities distributed by the community owner, exists.

() “Unsafe condition” means a condition within a manufactured home community that threatens or has threatened the life, health, or safety of a resident, visitor, or guest of the manufactured home community.

§ 7020A. Health or safety violations.

(a) If water, sewer, or septic supplied by or gas or electric distributed by the community owner fails or is not supplied safety, or if a community owner receives an official notice of an unsafe condition, the community owner must fix the problem within 10 days or do all of the following:

(1) Provide written documentation that there has been meaningful effort to fix the issue within 10 days.

(2) Provide a written detailed explanation of efforts taken and the specific reasons why the issue was unable to be resolved within the 10-day period, including the anticipated resolution date of the issue, to all of the following:

- a. Every affected resident in the community.
- b. To any homeowners’ association for residents of the community, if one exists.
- c. DEMHRA.
- d. DMHOA.
- e. The Attorney General.

(3) Provide a surety bond to DEMHRA that complies with the following.

- a. Is payable to DEMHRA.
- b. In an amount equal or greater to 150% of the estimated cost to fix the issue.

(4) Every 30 days, until the repair is completed, provide written updates to all of the same recipients as paragraph (2) of this subsection.

(b) If a receivership is granted under §§ 7061 – 7067 of this title, the receiver may utilize the full amount of the bond required under this subsection to complete any work necessary related to this section or related to any basis for which the receivership is granted.

(c) If the unsafe condition is water supplied by the community owner, in addition to complying with subsection (a) of this section, the must do either of the following:

(1) Supply all residents with potable or bottled water until the problem is resolved.

(2) Otherwise, following 48 hours from when the unsafe condition is identified, provide alternative suitable housing to affected tenants until the problem is resolved.

(d) Upon fixing the unsafe condition, the community owner must send notice to that the problem has been fully repaired to all of the following:

(1) Every affected resident in the community.

(2) To any homeowners' association for residents of the community, if one exists.

(3) DEMHRA.

(4) DMHOA.

(5) The Attorney General.

(6) If an official notice of unsafe condition was issued related to the problem, to the agency or governmental authority that issued the notice.

Section 2. Amend Chapter 70, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7051A. Rent increase; health or safety violations.

(a) A community owner may not increase rent under §§ 7052, 7052A, or 7052B of this title if an unsafe condition exists in the community unless otherwise permitted by this section.

(b) A condition preventing a rent increase under subsection (a) of this section exists if there has been an official notice of an unsafe condition within 12 months prior to the effective date of the rent increase and the community owner did not do both of the following:

(1) Completely resolve the condition that caused the notice to be issued.

(2) Fully comply with § 7020A of this title.

(c) Absent official notice of an unsafe condition under subsection (b) of this section, a resident or group of residents of the manufactured home community or a homeowners' association of the manufactured home community may file an action in the Justice of the Peace Court to show by a preponderance of the evidence either of the following:

(1) A condition which the community owner knows or should know exists that is an unsafe condition as defined in § 7003 of this title.

(2) A community owner that received an official notice of an unsafe condition has not adequately fixed or eliminated the condition that caused the notice to be issued.

(3) A community owner did not comply with § 7020A of this title.

(d) If a community owner has received an official notice of an unsafe condition, the community owner shall immediately send a copy within 5 days of receipt of the notice to all of the following:

a. To every resident in the community.

b. To any homeowners' association for residents of the community, if one exists.

c. DEMHRA.

d. The Attorney General.

e. DMHOA.

(e) (1) If a community owner has received an official notice of an unsafe condition under subsection (b) of this section or a finding has been made under subsection (c) of this section that an unsafe condition exists, a community owner may not increase the rent under §§ 7052, 7052A, or 7052B of this title unless the issue is resolved and the community owner complied with § 7020A of this title.

(2) If a community owner has received an official notice of an unsafe condition or has been subject to § 7020A of this title 3 times or more in 12 months for the same or substantially the same reason that has affected the same tenants, regardless of whether the unsafe condition was resolved, the community owner may not increase the rent under §§ 7052, 7052A, 7052B of this title for at least 12 months after the resolution of the last such incident of an unsafe condition.

(f) (1) If a community owner has received an official notice of an unsafe condition under subsection (b) of this section which the community owner disputes, the community owner may file an action in the Justice of the Peace Court to show by a preponderance of the evidence that the condition for which the notice was issued did not exist at the time of the notice.

(2) A copy of the petition filed under this subsection must be sent by the community owner to all of the following:

a. Every affected resident in the community.

b. Any homeowners' association for residents of the community, if one exists.

c. The court, administrative agency, county, or municipality that issued any violation under subsection (b) of this section.

d. DEMHRA.

e. DMHOA.

(3) A resident in the community, a group of residents, or a homeowners' association for residents in the community may intervene to oppose the community owner's petition filed under this subsection.

~~(a) For purposes of this section,~~

(1) “Escrow account” means an account with an FDIC-insured financial institution in an arrangement that requires that the financial institution hold the escrowed funds for the purpose of payment due to homeowners under this section.

(2) a. “Health or safety violation” or “violation” means a decision that contains a finding of fact or conclusion of law by any court, administrative agency, county, or municipality that a violation of a requirement under this chapter or federal, state, or county law exists and threatens the health or safety of the residents, visitors, or guests of the manufactured home community.

b. A violation is deemed to have started on the date that the violation is final. A violation is final if the decision finding the violation has been fully determined on appeal to the appropriate court, if all time for filing an appeal with respect to the decision has expired, or the decision is not subject to judicial review.

(3) “Total rent increase” means the difference in the amount of rent that a homeowner will owe in 1 year under the increased amount of rent in a notice under § 7051 of this title and the amount of rent the homeowner would owe in 1 year without the rent increase.

(b) A community owner may only increase rent under § 7052A or § 7052B of this title if 1 of the following apply:

(1) During the 12 months preceding the date of the notice of the rent increase, there has not been a health or safety violation in the manufactured home community that continued for 15 or more consecutive days.

(2) The community owner complies with subsection (c) of this section.

(c) A community owner may increase rent if the condition that constitutes the violation under subsection (a) of this section is not corrected if the community owner complies with all of the following:

(1) Provides DEMHRA with all of the following before sending the notice of the rent increase:

a. A surety bond or a letter of credit as follows:

1. If the community owner provides a surety bond, the surety bond must be from an admitted carrier that is licensed in Delaware and has a rating from AM Best of A or better.

2. If the community owner provides a letter of credit, the letter of credit must be from an FDIC-insured financial institution.

3. The surety bond or letter of credit must be all of the following:

A. Payable to the Delaware Manufactured Home Relocation Authority.

B. In an amount sufficient to fund 100% of the total rent increase for all affected homeowners.

C. Contains the purpose of securing that the community owner will correct the violation by a specified date. For purposes of this section, the date by which the violation is corrected cannot be later than 1 year after the date of the violation.

b. A list that includes all of the following:

1. The name of each affected homeowner and the total rent increase for each homeowner.

~~2. The mailing address of each affected homeowner.~~

~~3. The total rent increase for all affected homeowners.~~

~~e. Written documentation of how the violation will be corrected.~~

~~(2) Sends a copy of the documents required under paragraph (c)(1) of this section with the notice of the rent increase and to the Delaware Manufactured Home Owners Association and the Department of Justice.~~

~~(d) If a community owner increases rent under subsection (c) of this section and provides documentation to DEMHRA that the violation has been corrected by the date under paragraph (c)(1)a.3.C. of this section, DEMHRA shall cancel and surrender the surety bond or letter of credit to the community owner and the liability upon the surety bond or letter of credit is discharged.~~

~~(e) If a community owner increases rent under subsection (c) of this section and does not provide documentation to DEMHRA that the violation has been corrected by the date under paragraph (c)(1)a.3.C. of this section, the rent increase does not take effect and DEMHRA shall do all of the following:~~

~~(1) Make a claim on the surety bond or draw on the letter of credit.~~

~~(2) Deposit the funds from the surety bond or letter of credit in an escrow account.~~

~~(3) Within 30 days of the date under paragraph (c)(1)a.3.C. of this section, send each affected homeowner the amount of the total rent increase as provided under paragraph (c)(1)b.1. of this section.~~

~~(f) DEMHRA may promulgate regulations necessary to implement this section.~~

~~(g) The Superior Court has jurisdiction over disputes under this section.~~

Section 3. Amend Chapter 70, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7055. Penalties [For application of this section, see 79 Del. Laws, c. 304, § 7].

A community owner who raises a homeowner's rent ~~more than the annual average increase of the CPI-U for the preceding 36-month period~~ without complying with this subchapter, must immediately reduce the rent to the amount in effect before the unauthorized increase and rebate the unauthorized rent collected to the homeowners with interest. The Department of Justice ~~shall have~~ has authority over this section.

Section 4. Amend Chapter 70, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7051A. Rent increase; health or safety violations.

(a) For purposes of this section,

(1) "Escrow account" means an account with an FDIC-insured financial institution in an arrangement that requires that the financial institution hold the escrowed funds for the purpose of payment due to homeowners under this section.

(2) a. "Health or safety violation" or "violation" means a decision that contains a finding of fact or conclusion of law by any court, administrative agency, county, or municipality that a violation of a

requirement under this chapter or federal, state, or county law exists and threatens the health or safety of the residents, visitors, or guests of the manufactured home community.

b. A violation is deemed to have started on the date that the violation is final. A violation is final if the decision finding the violation has been fully determined on appeal to the appropriate court, if all time for filing an appeal with respect to the decision has expired, or the decision is not subject to judicial review.

(3) “Total rent increase” means the difference in the amount of rent that a homeowner will owe in 1 year under the increased amount of rent in a notice under § 7051 of this title and the amount of rent the homeowner would owe in 1 year without the rent increase.

(b) A community owner may only increase rent under § 7052A or § 7052B of this title if 1 of the following apply:

(1) During the 12 months preceding the date of the notice of the rent increase, there has not been a health or safety violation in the manufactured home community that continued for 15 or more consecutive days.

(2) The community owner complies with subsection (c) of this section.

(c) A community owner may increase rent if the condition that constitutes the violation under subsection (a) of this section is not corrected if the community owner complies with all of the following:

(1) Provides DEMHRA with all of the following before sending the notice of the rent increase:

a. A surety bond or a letter of credit as follows:

1. If the community owner provides a surety bond, the surety bond must be from an admitted carrier that is licensed in Delaware and has a rating from AM Best of A or better.

2. If the community owner provides a letter of credit, the letter of credit must be from an FDIC-insured financial institution.

3. The surety bond or letter of credit must be all of the following:

A. Payable to the Delaware Manufactured Home Relocation Authority.

B. In an amount sufficient to fund 100% of the total rent increase for all affected homeowners.

C. Contains the purpose of securing that the community owner will correct the violation by a specified date. For purposes of this section, the date by which the violation is corrected cannot be later than 1 year after the date of the violation.

b. A list that includes all of the following:

1. The name of each affected homeowner and the total rent increase for each homeowner.

2. The mailing address of each affected homeowner.

3. The total rent increase for all affected homeowners.

c. Written documentation of how the violation will be corrected.

(2) Sends a copy of the documents required under paragraph (c)(1) of this section with the notice of the rent increase and to the Delaware Manufactured Home Owners Association and the Department of Justice.

(d) If a community owner increases rent under subsection (c) of this section and provides documentation to DEMHRA that the violation has been corrected by the date under paragraph (c)(1)a.3.C. of this section, DEMHRA shall cancel and surrender the surety bond or letter of credit to the community owner and the liability upon the surety bond or letter of credit is discharged.

(e) If a community owner increases rent under subsection (c) of this section and does not provide documentation to DEMHRA that the violation has been corrected by the date under paragraph (c)(1)a.3.C. of this section, the rent increase does not take effect and DEMHRA shall do all of the following:

(1) Make a claim on the surety bond or draw on the letter of credit.

(2) Deposit the funds from the surety bond or letter of credit in an escrow account.

(3) Within 30 days of the date under paragraph (c)(1)a.3.C. of this section, send each affected homeowner the amount of the total rent increase as provided under paragraph (c)(1)b.1. of this section.

(f) DEMHRA may promulgate regulations necessary to implement this section.

(g) The Superior Court has jurisdiction over disputes under this section.

Section 5. Sections 1, 2, and 3 of this Act take effect upon enactment.

Section 2 of this Act expires on July 1, 2026.

Section 4 of this Act takes effect on July 1, 2026.

Approved August 9, 2024