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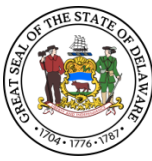
LANDLORD TENANT CODE SUPPLEMENT

Thank you for contacting Legislative Council/Division of Research. This supplemental packet contains laws passed during the 152nd General Assembly that impact the Landlord Tenant Code (LTC) but have not been incorporated in the published document yet. The relevant sections of code are highlighted in green on the bills. Below is a brief summary of the changes:

Session Law	Code Section	Change	Page # in LTC
84/357	§ 7003; § 7020A;	New language added to § 7003 & § 7020A. Changes to § 7051A* & § 7055. (*Please note varying effective dates)	63 & 81
	§ 7051A; & § 7055		98 & 104
84/358	§ 5116	Changes to language	13

Please feel free to contact us if you have any questions.

Sincerely,
Legislative Information Office



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.

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 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



LAWS OF DELAWARE
VOLUME 84
CHAPTER 358
152nd GENERAL ASSEMBLY
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 293
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6 AND TITLE 25 OF THE DELAWARE CODE RELATING TO FAIR HOUSING.

WHEREAS, both the Delaware Fair Housing Act, Chapter 46 of Title 6, and Residential Landlord-Tenant Code, Chapter 51 of Title 25, prohibit discrimination based on source of income; and

WHEREAS, under both laws, “source of income” means any lawful source of money paid directly, indirectly, or on behalf of a renter or buyer of housing, including income or rental payments derived from any government or private assistance, grant, or loan program; and

WHEREAS, both the Delaware Fair Housing Act and Residential Landlord-Tenant Code have an exception to this prohibition against discrimination based on source of income so that a landlord's nonparticipation in a government-sponsored rental assistance, voucher, or certificate system (voucher) may not serve as the basis for an administrative or judicial proceeding; and

WHEREAS, this exception means that this State’s laws prohibiting discrimination based on source of income explicitly allow discrimination against people who have a source of income that can only be used to pay for housing; and

WHEREAS, Delaware has a severe affordable housing shortage, with only 38 available and affordable rental units for every 100 extremely low-income renters; and

WHEREAS, voucher recipients face significant hurdles finding units to rent; and

WHEREAS, when voucher recipients are unable to secure housing before their voucher expires, they lose their voucher and thus, this crucial housing assistance for which they are eligible; and

WHEREAS, New Castle County gives voucher holders 120 days to find housing, but currently only 42% of voucher holders find units during that window due to the lack of affordable housing; and

WHEREAS, this is a decrease from 2022, when 50% of New Castle County voucher holders were able to secure housing with their voucher; and

WHEREAS, in Kent and Sussex counties, only 36% of households with federal Housing Choice Vouchers administered by the Delaware State Housing Authority (DSHA) were able to secure housing with their voucher in 2023; and

WHEREAS, even voucher holders that receive case management services under the DSHA-administered State Rental Assistance Program (SRAP) experience difficulty renting a unit and only 79% of SRAP voucher recipients were able to secure housing with their voucher in 2023; and

WHEREAS, the 5 Delaware public housing authorities (PHAs) have retained a consultant to assist with streamlining the procedures required when landlords accept vouchers; and

WHEREAS, the Delaware Apartment Association (DAA) is actively participating in the PHAs’ efforts to streamline these procedures, including by providing feedback on the current processes; and

WHEREAS, in May 2024, the consultant retained by the PHAs to assist with this streamlining process issued a recommendations report that includes specific short, medium, and long-term recommendations for the PHAs, including a recommended timeframe for the processing of Requests for Tenancy Approval; and

WHEREAS, the PHAs and consultant continue to hold meetings with the DAA and other landlords to discuss these recommendations; and

WHEREAS, a New York University study of jurisdictions that enacted laws prohibiting source of income discrimination against housing voucher holders found that these laws lead to more upwardly mobile moves among existing voucher holders; and

WHEREAS, research by Opportunity Insights, based at Harvard University, found that children who grow up in communities with more cross-class interaction are much more likely to rise up out of poverty; and

WHEREAS, both DSHA's 2020 Delaware Statewide Analysis of Impediments to Fair Housing Choice and the Infrastructure & Environment Subcommittee of the African American Task Force, established under Section 39(j)(1)d. of SB 260 (150th), recommended prohibiting discrimination against tenants with housing vouchers.

NOW, THEREFORE:

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

Section 1. Amend § 4607, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4607. Exemptions in certain situations.

~~(j) A landlord is not required to participate in any government-sponsored rental assistance program, voucher, or certificate system. A landlord's nonparticipation in any government-sponsored rental assistance program, voucher, or certificate system may not serve as the basis for any administrative or judicial proceeding under this chapter. The denial of a rental application under § 5116(e)(2) of Title 25 may not serve as the basis for any administrative or judicial proceeding under this chapter.~~

Section 2. Amend § 5116, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5116. Fair housing provisions.

~~(c) A landlord not be required to participate in any government-sponsored rental assistance program, voucher, or certificate system. A landlord's nonparticipation in any government-sponsored rental assistance program, voucher, or certificate system may not serve as the basis for any administrative or judicial proceeding under this chapter.~~

(1) The public housing authorities must implement the standardized sequence of processing a Request for Tenancy Approval recommended by the third-party consultant in the May 2024 report, "Alignment of Delaware Housing Choice Voucher Programs to Create Efficiencies and Increase Landlord Engagement", prepared for the Delaware State Housing Authority.

(2) If a public housing authority fails to comply with the standardized sequence of processing a Request for Tenancy Approval under paragraph (c)(1) of this section, a landlord may deny a rental application to ensure the reliable and timely supply of housing units.

(3) The denial of a rental application under paragraph (c)(2) of this section may not serve as the basis for any administrative or judicial proceeding under this chapter.

Section 3. (a) No later than March 1, 2028, the Delaware State Housing Authority shall compile a report regarding the work of Delaware's public housing authorities (PHAs) to streamline their procedures associated with the use of government-sponsored housing vouchers (vouchers). This report must contain all of the following:

- (1) A list of the recommendations for streamlining provided to the PHAs by their hired consultant.
- (2) The status of each recommendation under paragraph (a)(1) of this Section, including:

- a. The recommendations that have been fully implemented.
- b. The recommendations that are in the process of being implemented and the expected date of completion.
- c. Recommendations that are not being implemented and the reason each is not being implemented.

(3) Any additional streamlining improvements that have been identified and the status of each.

(4) Data comparing the utilization of vouchers in calendar years 2024 and 2025 with the utilization of vouchers in calendar years 2026 and 2027, including data for each of the following:

- a. Federally-funded vouchers.
- b. State-funded vouchers.
- c. Each PHA.
- d. Different categories of landlords, including by groups based on the number of rental units owned.

(b) The Delaware State Housing Authority shall submit the report required under this Section to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, with copies to all members of the General Assembly, the Governor, the Director and the Librarian of the Division of Research of Legislative Council, and the Delaware Public Archives.

Section 4. This Act is effective immediately and is to be implemented the later of the following:

(1) Notice by the Director of the Delaware State Housing Authority published in the Register of Regulations that the consultant has confirmed that the public housing authorities have successfully adopted and implemented all of the short-term recommendations in the third-party consultant's May 2024 report, "Alignment of Delaware Housing Choice Voucher Programs to Create Efficiencies and Increase Landlord Engagement".

(2) January 1, 2026.

Section 5. This Act expires on December 31, 2028, unless otherwise provided by a subsequent act of the General Assembly.

Approved August 9, 2024