SPONSOR: Sen. Walsh & Sen. Townsend & Rep. Baumbach & Rep. Longhurst
Sen. Sokola; Reps. Briggs King, Mitchell, D. Short

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 9

AN ACT TO AMEND TITLE 9, TITLE 16, TITLE 25, AND TITLE 29 OF THE DELAWARE CODE RELATING TO MANUFACTURED HOME COMMUNITIES.

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

Section 1. Amend § 7003, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 7003. Definitions.

~~Unless otherwise expressly stated, if a word or term is not defined under this section, it has its ordinarily accepted meaning or means what the context implies.~~ For purposes of this chapter:

(2) "Authority" or "DEMHRA" means the Delaware Manufactured Home Relocation Authority.

(5) "CPI-U" means the Consumer Price Index for All Urban Consumers in the Philadelphia-Camden-Wilmington region.

(14) "Market rent"' means that rent which would result from market forces absent an unequal bargaining position between the community owner and the homeowners. In determining market rent, relevant considerations include rents charged to recent new homeowners entering the subject manufactured home community or by comparable manufactured home communities, or both. To be comparable, a manufactured home community must be within the competitive area and must offer similar facilities, services, amenities, and management.

Section 2. Amend § 7051, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7051. Rent increase; notice.

(a) A ~~landlord~~ community owner may not increase a tenant's lot rent more than once during any 12-month period, regardless of the term of the tenancy or the term of the rental agreement.

(b) A community owner may only increase rent if the rent increase complies with all of the following:

(1) Any lease provision providing for a specific amount of rent for a specific period of time.

(2) The applicable requirements of this chapter.

(c)(1) A community owner must provide written notice of a rent increase at least 90 days, but no more than 120 days, before the first day the increased amount of rent is due, to all of the following:

a. Each affected homeowner.

b. The homeowners' association, if 1 exists.

c. DEMHRA.

(2) The notice under paragraph (c)(1) of this section must identify all affected homeowners by lot number, name, group, or phase. If the affected homeowners are not identified by name, the community owner shall make the names and addresses available, upon request, to any affected homeowner, homeowners' association, or DEMHRA.

Section 3. Amend § 7052, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 7052. Rent ~~justification.~~ justification; when § 7052A and § 7052B of Title 25 do not apply.

(a)(1) This section applies to rent increases for all single-year and for all multiple-year leases entered into or renewed upon expiration of a prior lease after November 30, 2013, if notice of a rent increase was provided before [the effective date of this Act].

(2) This section also applies to a lease when notice of a rent increase is provided on or after [the date 5 years after the effective date of this Act], if § 7052A of this title does not apply.

(b) A community owner may raise a homeowner's rent for any and all 12-month periods governed by the rental agreement in an amount greater than the average annual increase of the ~~Consumer Price Index For All Urban Consumers in the Philadelphia-Wilmington-Atlantic City area (CPI-U")~~ CPI-U for the most recently available preceding 36-month period, provided the community owner can demonstrate the increase is justified for all of the following conditions:

(1) The community owner, during the preceding 12-month period, has not been found in violation of any provision of this chapter that threatens the health or safety of the residents, visitors, or guests that persists for more than 15 days, beginning from the day the community owner received notice of such violation.

(2) The proposed rent increase is directly related to operating, maintaining, or improving the manufactured home community, and justified by 1 or more factors listed under subsection ~~(c)~~ (d) of this section.

~~(b)~~ (c) The Delaware State Housing Authority shall monitor the CPI-U and report to the Authority findings and recommendations relevant to the cost of rent in manufactured home communities in Delaware.

~~(c)~~ (d) One or more of the following factors may justify the increase of rent in an amount greater than the CPI-U:

(1) The completion and cost of any capital improvements or rehabilitation work in the manufactured home community, as distinguished from ordinary repair, replacement, and maintenance.

(2) Changes in property taxes or other taxes within the manufactured home community.

(3) Changes in utility charges within the manufactured home community.

(4) Changes in insurance costs and financing associated with the manufactured home community.

(5) Changes in reasonable operating and maintenance expenses relating to the manufactured home community including costs for water service; sewer service; septic service; water disposal; trash collection; and employees.

(6) The need for repairs caused by circumstances other than ordinary wear and tear in the manufactured home community.

(7) Market rent. ~~-- For purposes of this section, market rent'' means that rent which would result from market forces absent an unequal bargaining position between the community owner and the homeowners. In determining market rent relevant considerations include rents charged to recent new homeowners entering the subject manufactured home community and/or by comparable manufactured home communities. To be comparable, a manufactured home community must be within the competitive area and must offer similar facilities, services, amenities, and management.~~ [Transferred to § 7003 of Title 25.]

(8) The amount of rental assistance provided by the community owner to the homeowners under § 7022 of this title.

~~(d)~~ (e) A community owner shall not incorporate the cost of a civil penalty, criminal fine, or litigation-related costs for rent-related proceedings into rent charged under any circumstance. A community owner also shall not utilize as justification for any future rental increase the cost of capital improvements or rehabilitation work, once that cost has been fully recovered by rental increases that were incorporated into a prior rental increase in excess of CPI-U, where the prior rental increase was properly implemented under this subchapter.

Section 4. Amend Subchapter VI, 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.

§ 7052A. Rent increase; justified base rent increase calculations.

(a)(1) This section applies to a lease when notice of a rent increase is provided on or after [the effective date of this Act] until [the date 5 years after the effective date of this Act].

(2) Any of the following may continue beyond [the date 5 years after the effective date of this Act]:

a. A phased rent increase in effect under paragraph (d)(3) of this section.

b. An agreement under paragraph (b)(1)c. of this section.

(3) After [the date 5 years after the effective date of this Act], this section continues to apply to rent increased under this section, including an additional rent increase under § 7052B of this title, until the end of the period for the rent increase.

(b)(1) If a community owner is in compliance with § 7051A of this title, a community owner may increase rent under 1 of the following:

a. Paragraph (c)(2) of this section, based on the CPI-U.

b. Subsection (d) of this section, based on the market rent.

c. Notwithstanding subsections (c) and (d) of this section, a community owner and a homeowner may, under a separate written agreement, mutually agree to a rent increase effective for longer than 1 calendar year.

(2) In addition to a rent increase under paragraph (b)(1) of this section, a community owner may increase rent under § 7052B of this title, if the community owner includes a written reservation of rights as follows:

a. In the notice for a rent increase under paragraph (c)(2) or subsection (d) of this section.

b. In the agreement to a rent increase under paragraph (b)(1)c. of this section.

(c)(1)a. For purposes of this section, "24-month CPI-U" means the average annual increase of the CPI-U for the most recently available preceding 24-month period.

b. The Delaware State Housing Authority shall monitor updates to the CPI-U and within 5 days after new CPI-U data is released, calculate the 24-month CPI-U and report the 24-month CPI-U to DEMHRA.

(2) A community owner may increase rent in an amount that does not exceed the following:

a. If the 24-month CPI-U is equal to or below 7%, by 3.5% of the rent plus 50% of the 24-month CPI-U up to an amount that does not exceed 7% of the 24-month CPI-U.

b. If the 24-month CPI-U exceeds 7%, by the 24-month CPI-U.

(3)a. Before providing notice of a rent increase under this subsection (c), a community must receive certification from DEMHRA that the rent increase is in compliance with paragraph (c)(2) of this section, as follows:

1. At least 20 days before providing notice of the rent increase, a community owner must submit written notice of this rent increase to DEMHRA and the Consumer Protection Division of the Department of Justice.

2. Within 10 days of receiving the notice under paragraph (c)(3)a.1. of this section, DEMHRA shall provide a written reply to the community owner that either provides certification that the proposed rent increase complies with paragraph (c)(2) of this section or states that the proposed rent increase cannot be certified.

b. A community owner must provide a copy of the certification under paragraph (c)(3)a.2. of this section with the notice of the rent increase.

c. If DEMHRA does not provide certification under paragraph (c)(3)a.2. of this section, a community owner must submit a new notice under paragraph (c)(3)a.1. of this section before increasing rent under this subsection (c).

(4) The Superior Court has jurisdiction over disputes under this subsection (c).

(d)(1) A community owner may increase rent to bring the amount of rent to a market rent.

(2) Section 7053 of this title applies to a rent increase under this subsection (d).

(3) A rent increase under this subsection (d) must be phased in equally as follows:

a. Over 7 years, if the increase under paragraph (d)(1) of this section is an amount that equals 50% or less of the rent on the date of the notice of the rent increase.

b. Over 10 years, if the increase under paragraph (d)(1) of this section is an amount that equals more than 50% of the rent on the date of the notice of the rent increase.

§ 7052B. Rent increase; justified additional rent increase for allowed expenses.

(a)(1) A community owner may increase rent under this section, in addition to a rent increase under § 7052A of this title, if the community owner is in compliance with all of the following:

(1) Sections 7051A and 7052A(b)(2) of this title.

(2) In the notice of the rent increase, the community owner explains that the community owner is providing written documentation of the actual cost of each of the allowed expenses by doing all of the following:

a. Providing a website where the documentation may be accessed and downloaded.

b. Making paper copies available for review in the manufactured home community's management office.

c. Upon request of a homeowner, providing paper copies of the documentation at no cost.

(b) For purposes of this section:

(1) "Additional rent increase" means a rent increase under this section, that is in addition to the base rent increase.

(2) "Aggregate total of allowed expenses" means the total dollar amount of all of the allowed expenses for the manufactured home community for a 12-month period.

(3) "Allowed expenses" mean all of the following for the manufactured home community:

a. Taxes.

b. Insurance.

c. Utility charges or service.

d. Onsite employee costs, such as benefits and employment taxes, but not salaries or wages.

(4) "Anniversary date" means the date of the most recent base rent increase.

(5) "Base rent increase" means a rent increase under § 7052A of this title.

(6) "Increase of the aggregate total of allowed expenses" means the difference between the aggregate total of allowed expenses for the previous 12-month period and the aggregate total of allowed expenses for the prior 12-month period.

(7) "Onsite employee" means an employee whose primary job responsibilities are directly related to the operation and management of the manufactured home community.

(8) "Previous 12-month period" means the most recent 12 months before the notice of the rent increase under this section.

(9) "Prior 12-month period" means the most recent 12 months before the beginning of the previous 12-month period.

(10) "24-month CPI-U" means the 24-month CPI-U as calculated under § 7052A(c)(1) of this title.

(c) If a community owner is increasing rent under § 7052A(c)(2) of this title, the community owner may include an additional rent increase if the increase of the aggregate total of allowed expenses increased by a percentage that is larger than the 24-month CPI-U.

(d) On or after the second anniversary date of the base rent increase under §§ 7052A(b)(1)c. or 7052A(d) of this title, the community owner may add an additional rent increase if the increase of the aggregate total of allowed expenses increased by a percentage that is larger than the 24-month CPI-U.

(e) An additional rent increase is calculated by dividing the increase of the aggregate total of the allowed expenses by the number of recorded lots in the manufactured housing community and adding that sum to the base rent increase under § 7052Aof this title.

Section 5. Amend § 7053, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 7053. Rent increase dispute resolution.

(a)(1) ~~A community owner shall give written notice to each affected homeowner and to the homeowners' association, if one exists, and to the Delaware Manufactured Home Relocation Authority ("Authority"), at least 90 days prior to any increase in rent. The notice shall identify all affected homeowners by lot number, name, group, or phase. If the affected homeowners are not identified by name, the community owner shall make the names and addresses available to any affected homeowner, homeowners' association, and the Authority, upon request.~~ This section applies to rent increases under §§ 7052, 7052A(d), and 7052B of this title.

(2) The Authority must maintain a form final meeting notice that includes all of the following:

a. The deadline to request arbitration under subsection (f) of this section.

b. A statement that an informal meeting under subsection (e) of this section does not affect, in any way, the date by which arbitration must be requested under subsection (f) of this section.

(3) The written notice under ~~this subsection (a)~~ § 7051 of this title must contain all of the following:

a. The approved date, time, and place for the final meeting required under subsection (b) of this section.

b. The form language maintained by the Authority under paragraph (a)(2) of this section.

(j) The arbitrator will render a decision employing the standards under ~~§ 7052 of this title.~~ the requirements of the section under which the rent increase is proposed.

(k) The arbitrator will render a written decision within 15 days of the conclusion of the arbitration hearing.

Section 6. Amend § 7054, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows

§ 7054. Appeal.

The community owner, the homeowners' association, or any affected homeowner may appeal the decision of the arbitrator under § 7053(k) of this title, within 30 days of the date of issuance of the arbitrator's decision. The appeal shall be to the Superior Court in the county of the affected community. The appeal shall be on the record and the Court shall address written and/or oral arguments of the parties as to whether the record created in the arbitration is sufficient justification for the arbitrator's decisions and whether those decisions are free from legal error.

Section 7. Amend Subchapter II, Chapter 70, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7022. Lot ~~Rental Assistance Program.~~ rental assistance program; eligibility.

(a) A homeowner ~~or tenant~~ in a manufactured home community who is eligible for Social Security Disability ~~(SSD)~~ or Supplemental Security Income ~~(SSI)~~ benefits or who is 62 years of age or older is eligible for lot rental assistance from the manufactured home community owner if the homeowner ~~or tenant~~ meets all of the following criteria:

(1) The homeowner ~~or tenant~~ must have owned the manufactured home or resided in the home in the manufactured home community ~~prior to July 1, 2006.~~ for the 5 consecutive years before requesting lot rental assistance under this section.

(2) The homeowner ~~or tenant~~ must reside full time and exclusively in the manufactured home in the manufactured home community, and the manufactured home must be the homeowner's ~~or tenant's~~ only residence.

(3) ~~The lot rent, excluding utility charges and other charges, fees, and assessments that are part of the services rider required under § 7008(a)(9) of this title, must exceed 30% of the income definition, as stated in the Delaware State Housing Authority Fact Book (DSHA Fact Book), or its successor document, for~~ The total income of the

homeowner and all occupants is equal to or less than 40% of the county median income, as determined by the United States Department of Housing and Urban ~~Development (HUD) for the county median income limits based upon 40% of the county's median income for the number of residents in the home. For purposes of this section, "income" includes the income of all occupants of the manufactured home, whether or not an occupant is a tenant, and of all tenants of the manufactured home, whether or not a tenant is an occupant.~~ Development.

(4)a. The total liquid ~~assets, including but not limited to~~ assets of the homeowner and all occupants do not exceed $50,000.

b. For purposes of this section, liquid assets include bank accounts, stocks, and ~~bonds of the homeowner or homeowners, tenant or tenants, and other residents, may not exceed $50,000.~~ bonds.

(5) The ~~homeowner, tenant, and other residents~~ homeowner and occupants must provide to the community owner all documentation necessary to determine eligibility for lot rental assistance, such as bank records, eligibility letters, tax returns, and brokerage statements.

(6) The ~~homeowner, tenant, and other residents~~ homeowner, occupants, and the manufactured home must be in substantial compliance with all manufactured home community rules, regulations, and standards.

(b) The ~~homeowner, tenant,~~ homeowner and ~~other residents~~ occupants may not be recipients of any other rental assistance funding.

(c) ~~Lot~~ A rental assistance ~~or rent~~ credit received by a homeowner ~~or tenant pursuant to~~ under this section is not transferable upon the sale of the manufactured home or the transfer of the rental agreement to a third-party purchaser. If a rental agreement is transferred under § 7013 of this title, thereafter the transferee must pay the full amount of rent due under the lease.

(d) ~~A homeowner or tenant who qualifies for lot rental assistance under subsection (a) of this section is entitled to lot rental assistance for a term of 1 year.~~ Lot rental assistance for a qualified homeowner ~~or tenant~~ is a credit which is computed as the difference between the ~~then-current~~ current lot rent and 30% of the income ~~definition for the county median income, as stated in the DSHA Fact Book for the number of residents in the home; provided, however,~~ as calculated under subsection (a) of this section so that the lot rent for an eligible homeowner ~~or tenant~~ after application of a lot rental assistance credit ~~may~~ does not exceed 30% of the homeowner's income ~~definition for the county median income, as stated in the DSHA Fact Book for the number of residents in the home.~~ under paragraph (a)(3) of this section.

(e) ~~The homeowner or tenant has the responsibility to reestablish annually eligibility for lot rental assistance if that homeowner or tenant believes that the homeowner or tenant remains eligible for lot rental assistance. The homeowner or~~

~~tenant must reestablish eligibility within 45 days immediately before the anniversary date of the prior determination of eligibility.~~ [Transferred to § 7022A of Title 25.]

(f)~~(1) A community owner who is required to participate in the lot rental assistance program shall provide notice of the program to all homeowners and tenants in the community, and shall provide, under paragraph (f)(2)a. or (f)(2)b. of this section, renewal notices to all program participants at least 45 days before a participant's term of assistance expires. If the community owner does not provide a renewal notice, the lot rental assistance credit remains in effect until 45 days after the community owner provides notice. Upon receiving notice, a homeowner or tenant has 45 days to reestablish program eligibility by providing necessary documents and information to the community owner. If the homeowner or tenant fails to reestablish eligibility within 45 days of notice, the community owner may terminate the lot rental assistance credit.~~ [Transferred to § 7022A of Title 25.]

~~(2)a. Unless otherwise specified, renewal notice required by this subsection may be served personally upon a homeowner or tenant of a manufactured home community by leaving a copy of the notice at the homeowner's or tenant's dwelling place with an adult person who resides therein.~~

~~b. In lieu of personal service, renewal notice required by this subsection may be sent by regular first class mail with proof of mailing or by certified mail, return receipt requested, to the homeowner or tenant at the address of the homeowner's or tenant's rented lot, or at an alternative address which the homeowner or tenant provided in writing to the community owner.~~ [Repealed.]

(g) ~~During the period of any lot rental assistance, a homeowner or tenant must remain current with payment of rent after the application of the lot rental assistance credit, as well as with payment of utility fees and other charges and assessments. If the homeowner or tenant does not pay all lot rent after the application of the lot rental assistance credit, as well as pay utility fees and other charges and assessments on or before the due date or during the grace period provided under the law or otherwise, then the lot rental assistance credit may be immediately terminated upon notice, and the homeowner or tenant will not be eligible for further lot rental assistance.~~ [Transferred to § 7022A of Title 25.]

(h) ~~A homeowner or tenant receiving lot rental assistance credit must notify the community owner immediately of any substantial change in that homeowner's or tenant's financial situation or in the composition of the household.~~ [Transferred to § 7022A of Title 25.]

(i) ~~Any intentional misrepresentation by an applicant of that applicant's financial situation or living arrangements which, if the truth were known, would have resulted in the denial of lot rental assistance shall result in the immediate termination of all lot rental assistance, and an immediate obligation to reimburse all credits received under the lot rental~~

~~assistance program to the point of the initial misrepresentation. A community owner may treat the amounts due and owing as a rent delinquency.~~ [Transferred to § 7022A of Title 25.]

(j) ~~A community owner shall treat all documents and information submitted for the lot rental assistance program as confidential and may not disclose the documents or information publicly or use them in any manner other than to determine eligibility under the lot rental assistance program. Any intentional public dissemination of confidential information provided pursuant to the lot rental assistance program is subject to civil relief which is reasonable and appropriate under Delaware law.~~ [Transferred to § 7022A of Title 25.]

(k) Nothing in this section prohibits the owner of a manufactured home community from offering a lot rental assistance program that provides benefits ~~over and above~~ greater than the benefits ~~set forth in~~ under this section, or that extends eligibility for participation in the program.

(*l*) ~~The provisions of this section do not apply~~ This section applies to a manufactured home community ~~with 25 or fewer~~ if the community has more than 25 manufactured home ~~lots; provided, however, that~~ lots. However, an owner of ~~such~~ a manufactured home community with 25 or fewer manufactured home lots may voluntarily offer a lot rental assistance program to the homeowners ~~and tenants of~~ in the community.

(m) For the purpose of benefiting persons aged 62 and older, this section establishes a narrow exception to the prohibition against housing discrimination on the basis of "age" under § 5116 of this title and the Delaware Fair Housing Act, Chapter 46 of Title ~~6, otherwise known as Delaware's Fair Housing Act [§ 4600 et seq. of Title 6].~~ 6.

§ 7022A. Lot rental assistance program; requirements.

(a) Community owners and homeowners must comply with the requirements under this section for lot rental assistance programs under § 7022 or § 7022B of this title.

(b)(1) A community owner shall annually provide written notice of the lot rental assistance program to all homeowners in the community.

(2) After 1 year, a community owner may require a homeowner receiving lot rental assistance to reestablish eligibility for lot rental assistance. If a community owner requires a homeowner to reestablish eligibility for lot rental assistance, the community owner shall provide written notice to the homeowner at least 60 days before the first day of the month that full rent will be due if the lot rental assistance credit is terminated. A notice under this paragraph (b)(2) of this section is not a notice of a rent increase under § 7051 of this title, but must comply with § 7015 of this title and include all of the following:

a. The date by which the homeowner must reestablish program eligibility under paragraph (b)(3) of this section.

b. The date that the full amount of rent will be due if the homeowner does not reestablish program eligibility.

c. The amount of rent that will be due without the lot rental assistance credit.

(3) A community owner shall provide a homeowner with at least 45 days, from the date of the notice under paragraph (b)(2) of this section, to reestablish program eligibility by providing necessary documents and information to the community owner.

(4) If the homeowner fails to reestablish eligibility under paragraph (b)(3) of this section, the community owner may terminate the lot rental assistance credit under paragraph (b)(2) of this section.

(5) A community owner may not terminate a lot rental assistance credit without providing notice and the opportunity to reestablish eligibility under this subsection (b) of this section.

(c) If the homeowner does not pay all lot rent due after the lot rental assistance credit, utility fees, or other charges and assessments on or before the due date or during the grace period, the lot rental assistance credit may be immediately terminated upon notice of the delinquency, and the homeowner is not eligible for further lot rental assistance.

(d) A homeowner receiving lot rental assistance credit must notify the community owner immediately of any substantial change in that homeowner's financial situation or in the composition of the household.

(e) If a homeowner intentionally misrepresents the homeowner's financial situation or living arrangements that would have resulted in the denial of lot rental assistance, all lot rental assistance terminates immediately, and the homeowner has an immediate obligation to reimburse all credits received under the lot rental assistance program from the point of the initial misrepresentation. A community owner may treat the amounts due and owing as a rent delinquency.

(f) A community owner shall treat all documents and information submitted for the lot rental assistance program as confidential and may not disclose the documents or information publicly or use them in any manner other than to determine eligibility under the lot rental assistance program. Any intentional public dissemination of confidential information provided under the lot rental assistance program is subject to civil relief which is reasonable and appropriate under Delaware law.

§ 7022B. Lot rental assistance program; limited eligibility.

(a)(1) A community owner shall provide lot rental assistance under this section if a manufactured home community has more than 25 manufactured home lots.

(2) This section does not prohibit a community owner from doing any of the following:

a. Offering a lot rental assistance program in a manufactured home community with 25 or fewer manufactured home lots.

b. Offering a lot rental assistance program that provides benefits greater than the benefits under this section.

c. Expanding eligibility for participation in a lot rental assistance program.

(b) A homeowner is eligible for lot rental assistance under this section if all of the following apply:

(1) The lot rent increase takes effect on or after [the effective date of this Act].

(2) The homeowner meets the qualifications under subsection (c) of this section.

(3) The homeowner and other occupants do not receive any other rental assistance funding.

(c) A homeowner in a manufactured home community who is eligible for Social Security Disability or Supplemental Security Income benefits or who is 62 years of age or older is eligible for lot rental assistance from the manufactured home community owner if the homeowner meets all of the following criteria:

(1) The homeowner must have owned the manufactured home or resided in the home in the manufactured home community for the 5 consecutive years before requesting lot rental assistance under this section.

(2) The homeowner must reside full time and exclusively in the manufactured home in the manufactured home community, and the manufactured home must be the homeowner's only residence.

(3) A homeowner qualifies for limited lot rental assistance if the total income of the homeowner and all occupants is greater than 40% and below 55% of the county median household income, as determined by the United States Department of Housing and Urban Development.

(4) The total assets of the homeowner and all occupants do not exceed $50,000. For purposes of this section, "total assets" means all of the following:

a. All liquid assets, including bank accounts, stocks, and bonds.

b. The total amount of excess lien paydowns against the manufactured home during the previous 5 years that exceed the scheduled amortization of the lien balance.

(5) The homeowner and occupants must provide to the community owner all documentation necessary to determine eligibility for lot rental assistance, such as bank records, eligibility letters, tax returns, and brokerage statements.

(6) The homeowner, occupants, and the manufactured home must be in substantial compliance with all manufactured home community rules, regulations, and standards.

(d) If eligible under this section, the homeowner's lot rental assistance is a limit on the amount of the rent increase, which is calculated by reducing the homeowner's rent as follows:

(1) Multiplying the amount of the rent increase as follows:

a. If the median household income is greater than 40% and below 42%, by 24.25%.

b. If the median household income is equal to or greater than 42% and below 44%, by 38.5%.

c. If the median household income is equal to or greater than 44% and below 46%, by 52.75%.

d. If the median household income is equal to or greater than 46% and below 48%, by 67.00%.

e. If the median household income is equal to or greater than 48% and below 50%, by 81.25%.

f. If the median household income is equal to or greater than 50% and below 52%, by 85.50%.

g. If the median household income is equal to or greater than 52% and below 55%, by 95.50%.

(2) A homeowner's rent increase under this section is the greater of the amount calculated under paragraph (d)(1) of this section or 1.5% of the amount of the rent increase.

(e) For the purpose of benefiting persons aged 62 and older, this section establishes a narrow exception to the prohibition against housing discrimination on the basis of "age" under § 5116 of this title and the Delaware Fair Housing Act, Chapter 46 of Title 6.

(f) A lot rental assistance credit received by a homeowner under this section is not transferable upon the sale of the manufactured home or the transfer of the rental agreement to a third-party purchaser. If a rental agreement is transferred under § 7013 of this title, thereafter the transferee must pay the full amount of rent due under the lease.

Section 8. Amend Subchapter I, Chapter 3, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 321. Notice of violation; manufactured home community.

If a county government finds a violation of a health or safety provision or requirement, adopted by the county government, in a manufactured home community, the county government must send a copy of the notice of the violation to all of the following:

(1) The State Representatives and Senators in whose district the violation occurred.

(2) The Department of Justice.

(3) The Delaware Manufactured Home Relocation Authority.

Section 9. Amend § 122, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 122. Powers and duties of the Department of Health and Social Services.

The Department shall have the following general powers and duties:

(3) Adopt, promulgate, amend, and repeal regulations consistent with law, which regulations shall not extend, modify or conflict with any law of this State or the reasonable implications thereof, and which shall be enforced by all state and local public health officials, to do all of the following:

c. Provide for the sanitary protection of all drinking water supplies which are furnished to and used by the public, including the establishment of primary maximum contaminant levels, operational requirements and public notice requirements. Primary maximum contaminant levels mean a maximum contaminant level which involves a biological, chemical or physical characteristic of drinking water that may adversely affect the health of the consumer.

6. Drinking water contaminant notification. — A. As used in this section, "Drinking water contaminant" means any physical chemical, biological or radiological substance or matter in drinking water, the presence of which is confirmed by 2 or more samples taken at the same location at different times, using recognized practices and procedures, which substance exceeds the minimum drinking water quality standards established in accordance with paragraph (3)c. of this section.

E. In accordance with the public notification timelines established ~~in~~ under paragraph ~~(3)c.7.C.~~ (3)c.6.C. of this section, the public drinking water supplier shall also provide the same notification to ~~the~~ all of the following:

I. The elected Council or Levy Court ~~member or~~ members of ~~any municipality and/or~~ the county in which the contamination ~~occurred, the State Representative(s) and Senator(s)~~ occurred.

II. The elected Council members of the municipality in which the contamination occurred.

III. The State Representatives and Senators in whose district the contamination ~~occurred,~~ ~~and any~~ occurred.

IV. Any community or civic group or individual that notifies the public drinking water supplier that they desire to receive such information.

V. If the contamination occurred in a manufactured home community, the Department of Justice and the Delaware Manufactured Home Relocation Authority.

Section 10. Amend § 8003A, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8003A. Powers, duties and functions of law-enforcement officers of the Department of Natural Resources and Environmental Control.

(a) The law-enforcement officers of the Department of Natural Resources and Environmental Control shall see to the enforcement of all laws, regulations, rules, permits, licenses, ~~orders~~ orders, and program requirements of the Department of Natural Resources and Environmental Control.

(b) Law-enforcement officers of the Department of Natural Resources and Environmental Control shall have police powers similar to those of constables, peace ~~officers~~ officers, and other police officers when enforcing the laws, regulations, rules, permits, licenses, ~~orders~~ orders, and program requirements of the Department of Natural Resources and Environmental Control. Such police powers shall ~~include, but not be limited to,~~ include powers of investigation, search, seizure, ~~detention~~ detention, and arrest conferred by law on constables, peace ~~officers~~ officers, and other police officers.

(c) Law-enforcement officers of the Department of Natural Resources and Environmental Control ~~shall~~ have the authority to serve and return summonses, ~~subpoenas~~ subpoenas, and warrants.

(d) Nothing contained in this section ~~shall~~ may be construed to limit the statutory enforcement authorities, ~~responsibilities~~ responsibilities, or powers of enforcement personnel of the Department of Natural Resources and Environmental Control.

(e) If a law-enforcement officer of the Department of Natural Resources and Environmental Control finds that a violation of a requirement under the Department of Natural Resources and Environmental Control occurs in a manufactured home community, the Department of Natural Resources and Environmental Control must send a copy of the notice of the violation, summons, or order to all of the following:

(1) The elected Council or Levy Court members of the county in which the violation occurred.

(2) The elected Council members of the municipality in which the violation occurred.

(3) The State Representatives and Senators in whose district the violation occurred.

(4) The Department of Justice.

(5) The Delaware Manufactured Home Relocation Authority.

Section 11. This Act takes effect on the first day of the month following its enactment into law.

SYNOPSIS

Senate Bill No. 9 establishes new formulas that a community owner is allowed use to increase rent in a manufactured home community. Senate Substitute No. 1 to SB 9 makes discrete changes to the provisions of SB 9, most of which clarify language or correct outdated references or technical errors. The 2 substantive changes expand eligibility for the lot rental assistance programs. The specific differences between this Act and SB 9 are noted below in the details of each Section of this Act.

The requirements under this Act will be in effect for 5 years, during which time the current requirements for rent increases in manufactured home communities will be suspended.

Under current law, rent increases in manufactured home communities have frequently been the subject of arbitration hearings and lengthy court cases. This Act seeks to dramatically reduce or eliminate these disputes by providing

a choice of 3 methods that a community owner can use to establish the amount of a rent increase. In addition, when rent is increased based on 1 of the new calculations, this Act establishes clear standards and requirements, including requiring documentation that all of requirements have been satisfied.

This Act applies to rent increases when notice is provided beginning the 1st day of the month following its enactment into law, and remains in effect until 5 years after its enactment.

Under § 7052 of Title 25, rent in a manufactured home community can be increased in amount greater than the percentage increase of the Consumer Price Index for All Urban Consumers (CPI-U) for the preceding 36 months if there have not been health or safety violations that persisted for more than 15 days, the rent increase is directly related to operating, maintaining, or improving the manufactured home community, and the rent increase is justified by 1 or more of the factors listed, which include, capital improvements, changes in taxes, utility charges, insurance costs, operating and maintenance expenses, repairs, and market rent. Rent increases under § 7052 are subject to additional requirements and the dispute resolution process under § 7053 of Title 25. Under this Act, § 7052 will not apply to rent increases while the new methods for calculating rent increases are in effect.

Under this Act, a community owner may increase rent based upon the increase in the CPI-U for the preceding 24 months, based on market rent, or by agreement with a homeowner for a period of more than 1 year. In addition, a community owner may increase rent based upon the increase in the cost of specific expenses. Increases based on market rent or these additional expenses are subject to the requirements and dispute resolution process under § 7053.

This Act requires that in order to increase rent, there cannot have been a health or safety violation that continued for more than 15 days as calculated under § 7051A of Title 25 or if there is a health or safety violation, the community owner must provide a surety bond or letter of credit in an amount sufficient to fund 100% of the rent increase in addition to written documentation of how the violation will be corrected by a specified date. If the violation is not corrected by that date, the surety bond or letter of credit will be used to refund the rent increase to homeowners. This Act also creates a limited eligibility lot rental assistance program for homeowners whose incomes are between 40% and 55% of the county median household income that applies to rent increases.

Specifically, this Act does all of the following:

Section 1. Moves definitions of the terms “CPI-U” and “market rent” to § 7003 of Title 25 because the terms are used in more than 1 section. This Act differs from SB 9 by updating the definition of “CPI-U” to reference the Philadelphia-Camden-Wilmington region.

Section 2. Adds detailed notice requirements to § 7051 of Title 25 that require written notice of a rent increase at least 90 days, but not more than 120 days, before the first day the increased amount of rent is due and that this notice must be sent to each affected homeowner, the homeowners’ association, if 1 exists, and the Delaware Manufactured Home Relocation Authority (DEHMRA).

Section 2. Revises § 7052 so that it applies to rent increases that occurred or were noticed between the date § 7052 was enacted and the effective date of this Act. It makes corresponding changes to the subsection designations and repeals the definition of “market rent” because that definition will be in § 7003.

Section 4. Establishes the requirements for rent increases for the 5 years after this Act takes effect, by creating the following:

• § 7051A of Title 25, which establishes the prerequisites regarding health or safety violations that must be satisfied before rent can be increased including the requirement that if a health or safety violation has continued for more than 15 days as calculated under § 7051A of Title 25, the community owner must not only document that the violation will be correct by a specific date within 1 year, but must provide DEHMRA with a surety bond or letter of credit in an amount sufficient to fund 100% of the rent increase. If the violation is not corrected by that date, the surety bond or letter of credit will be used to refund the rent increase to homeowners.

This Act differs from SB 9 by clarifying that “violation” includes requirements under federal, state, or county laws and that if the community owner does not correct the specified date, the rent increase does not take effect.

• Creates § 7052A of Title 25, which establishes the following 3 ways that a community owner may establish a base rent increase:

1. Based upon the increase in the CPI-U for the preceding 24 months.
2. Based on market rent
3. By agreement with a homeowner for a period of more than 1 year.

This Act differs from SB 9 by clarifying that § 7052A continues to apply to rent increased under the section after the section sunsets, revises the definition of the "24-month CPI-U" to mirror the language in § 7053 of Title 25, and clarifies the language explaining the rent increase calculation if based on a 24-month CPI-U that is equal to or below 7%.

• Creates § 7052B of Title 25, which establishes the requirements under which a community owner may add an additional rent increase to an increase under § 7052A. The requirements include the specific allowed expenses that can be the basis of an additional rent increase, the time periods that are used in the calculations, the calculation used to determine if an additional rent increase is permitted, and how the dollar amount of an additional rent increase is calculated. A community owner must provide documentation of the cost of each of the allowed expenses on a website and must provide paper copies for review at the management office and upon request by a homeowner.

Section 5. Makes the following corresponding changes to § 7053:

1. Repeals notice provisions that will be in § 7051 and applicable to all rent increases in manufactured home communities.

2. States that this section is applicable to rent increases under §§ 7052, 7052A(d), and 7052B of Title 25.

3. Revises subsection (j) so it includes the standards under §§ 7052A(d) and 7052B, if applicable.

Section 6. Makes a technical correction to § 7054 of Title 25 so that it references § 7053 of Title 25 where it provides the deadline to appeal a decision of an arbitrator.

Section 7. Revises the lot rental assistance program by doing the following:

• Revises § 7022 of Title 25, the current lot rental assistance program, by doing the following:

1. This Act differs from SB 9 by because it further expands eligibility by requiring residency in the home for 5 consecutive years, reduced from SB 9 which required 7 consecutive years, instead of prior to July 1, 2006.

2. Increasing eligibility to households with income that is equal to or less than 40% of the county median income, from the current 30%. This Act differs from SB 9 by because it updates which agency that determines the county median household income.

3. Repealing subsections that are being transferred to a new § 7022A of Title 25 because the provisions also apply to the new limited eligibility lot rental assistance program.

4. Making technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

• Creates § 7022A of Title 25, which has the requirements that apply to the lot rental assistance programs under both §§ 7022 and 7022B of Title 25. These requirements are transferred from § 7022A with only technical corrections.

• Creates § 7022B of Title 25, which creates a limited eligibility lot rental assistance program for homeowners whose incomes are between 40% and 55% of the median household income that applies to rent increases. Under this program, a homeowner's rent is calculated on a sliding scale based on the amount of the household's income.

This Act differs from SB 9 by doing all of the following:

1. Expands eligibility for the limited eligibility lot rental assistance program to lot rent increases that take effect after the effective date of this Act.

2. Revises the eligibility requirements to correct a drafting error.

3. It further expands eligibility by requiring residency in the home for 5 consecutive years, reduced from SB 9 which required 7 consecutive years.

4. Corrects which agency determines the county median household income.

5. Clarifies how rent is calculated under the limited eligibility lot rental assistance program.

Sections 8 through 10 require that if any of the following find a violation of a health or safety requirement in a manufactured home community, notice must be provided to local and state elected officials, the Department of Justice, and the Authority:

1. A county government.

2. The Department of Health and Social Services, for drinking water.

3. The Department of Natural Resources and Environmental Control.

In addition, Sections 8 through 10 make technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual, including the correction of an internal reference in § 122(3)c.E. of Title 16.

Section 11. Makes this Act effective on the first day of the month following its enactment into law.

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