SPONSOR: Rep. Longhurst & Sen. Pinkney
Reps. Carson, Heffernan, Lambert, Schwartzkopf, K. Williams, Wilson-Anton; Sens. Hoffner, Poore

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 212

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:

§ 7022A. Lot rental assistance program; requirements.

(b) (1) A community owner shall annually provide written notice of the lot rental assistance program to all homeowners in the community. The Delaware Manufactured Home Relocation Authority shall develop by [1 year from the effective date of this Act] requirements for the annual written notice. Community owners must follow these requirements when providing written notice of the lot rental assistance program to homeowners in their communities.

(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.

(6) A community owner shall annually submit a certification to DEMHRA confirming that the lot owner has complied with the requirements of this section. The certification shall include a report of the number of homeowners currently receiving a lot rental assistance credit, the number of homeowners who previously received the credit who became ineligible for the credit in the prior year, and the reason for the ineligibility. DEMHRA may request, and the community owner must provide, additional documents or information relating to the lot rental assistance program.

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

(b) A community owner may only increase rent under § 7052A or § 7052B of this title if, during the 12 months preceding the date of the notice of the rent increase or at the time of the last renewal of any lease or rental agreement, whichever was earlier, the rent was not increased by a factor of 5 percent or more, and 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.

§ 7052. Rent justification; when §§ 7052A and 7052B of this title do not apply [For application of this section, see 79 Del. Laws, c. 304, § 7].

(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 CPI-U for the most recently available preceding 36-month period, provided that the following conditions are met:

(1) ~~the~~ The community owner can demonstrate the increase is justified for all of the following conditions:

~~(1)~~ a. 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)~~ b. 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 (d) of this section.

(2) The rent was not increased by 5 percent or more during the earlier of 12 months preceding the notice of the rent increase or at the time of the last renewal of the lease or rental agreement.

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

(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.

(3) A community owner may not increase rent if the homeowner's rent was increased by 5 percent or more within the earlier of 12 months preceding the notice of the rent increase or at the time of the last renewal of the lease or rental agreement.

(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.

(3) A rent increase under this subsection 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.

(4) The provisions in this chapter prohibiting an increased rent where rent was increased by 5 percent or more within 12 months or at the time of the last renewal of the lease or rental agreement shall not apply where compliance would render it impossible to bring the amount of rent to a market rent by phasing in the market rent equally within the periods of time provided under (d)(3) of this section.

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

(a) 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.

(3) The community owner confirms the homeowner's rent was not increased by 5 percent or more within the earlier of 12 months from the date of the notice of the rent increase or at the time of the last renewal of the lease or rental agreement.

§ 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, or who otherwise raises a homeowner's rent in violation of 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 authority over this section.

§ 7047. Landlord disclosure obligations.

All landlords must provide the following information to DEMHRA by [180 days after the enactment of this Act], and thereafter all landlords must provide the following information to DEMHRA within 60 days of taking ownership, possession, or control of a manufactured housing community:

(a) The name, address, and telephone number of the manager or other local representative of the manufactured home community.

(b) The name, address, and telephone number of the owner of the manufactured home community.

(c) If the manufactured home community is owned by a corporate entity, the name, address, and telephone number of a corporate representative for that corporate entity.

SYNOPSIS

This Act prohibits manufactured home community owners from drastically increasing rent each year by prohibiting a community owner from increasing rent if the rent was increased by 5 percent or more the previous year or rental period. This Act does not prohibit a community owner from increasing rent to market rent in phases as called for in current law, even if doing so would otherwise violate the prohibition on increasing rent after a 5 percent or more increase. This Act clarifies that penalties of rent reduction and repayment of excess rent will be imposed for a community owner who increases rent in violation of any provision of Title 25, Chapter 70.

The Act also also requires community owners to annually provide certain information relating to the lot rental assistance program to DEMHRA as well as certify compliance with the program requirements, and allows DEMHRA to request further information about the program as needed.