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Sens. Gay, Hansen, Hoffner, Pinkney, Walsh; Reps.
Bolden, Hilovsky, Lambert, Wilson-Anton

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

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:

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

3 § 7051A. Rent increase; health or safety violations.

4 (a) A community owner may not increase rent under § 7052A or § 7052B of this title if a condition exists or has
5 existed within the prior 12 months in the community that threatens or has threatened the life, health, or safety of a resident,
6 visitor, or guest of the manufactured home community.

7 (b) A condition preventing a rent increase under subsection (a) of this section exists if there has been official
8 notice of an unsafe condition within the 12 months prior to the effective date of the rent increase. For purposes of this
9 section, "official notice of an unsafe condition" is a citation, charge, indictment, notice of violation or similar notice, or a
10 finding of fact or conclusion of law issued by any court, administrative agency, county, or municipality that a violation of a
11 requirement under this chapter or of federal, state, county, or municipal law or regulation, any of which relate to health and
12 safety, exists.

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

16 (1) A condition which the community owner knows or should know exists in the community that
17 threatens the life, health, or safety of a resident, visitor, or guest of the manufactured home community.

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

20 (d) (1) If a community owner has received an official notice of an unsafe condition, the community owner shall
21 immediately send a copy within 5 days of receipt of the notice to all of the following:

22 a. To every resident in the community.

- 23 b. To any homeowners' association for residents of the community, if one exists.
- 24 c. The Delaware Manufactured Home Relocation Authority (DEMhra).
- 25 d. The Attorney General.
- 26 e. Delaware Manufactured Homeowners' Association (DMHOA).

27 (2) If a community owner has received an official notice of an unsafe condition under subsection (b) of
28 this section or a finding has been made under subsection (c) of this section that an unsafe condition exists, a
29 community owner may not increase the rent § 7052A or § 7052B until it shows that the unsafe condition does not
30 exist. A community owner may file a petition in the Superior Court to show by a preponderance of the evidence
31 that the unsafe condition no longer exists.

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

- 34 a. Every resident in the community.
- 35 b. Any homeowners' association for residents of the community, if one exists.
- 36 c. The court, administrative agency, county, or municipality that issued any violation under
37 subsection (b) of this section.
- 38 d. The Delaware Manufactured Home Relocation Authority (DEMhra).
- 39 e. Delaware Manufactured Homeowners' Association (DMHOA).

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

42 (e) If a community owner is prohibited under this section from increasing the rent, it may not attempt to increase
43 the rent again until the next time period in which it may normally institute a rent increase.

44 (a) For purposes of this section,

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

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

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

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

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

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

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

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

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

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

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

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

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

75 A. ~~Payable to the Delaware Manufactured Home Relocation Authority.~~

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

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

81 b. ~~A list that includes all of the following:~~

- 82 1. The name of each affected homeowner and the total rent increase for each homeowner.
- 83 2. The mailing address of each affected homeowner.
- 84 3. The total rent increase for all affected homeowners.
- 85 e. ~~Written documentation of how the violation will be corrected.~~
- 86 (2) ~~Sends a copy of the documents required under paragraph (c)(1) of this section with the notice~~
- 87 ~~of the rent increase and to the Delaware Manufactured Home Owners Association and the Department of~~
- 88 ~~Justice.~~
- 89 (d) ~~If a community owner increases rent under subsection (c) of this section and provides~~
- 90 ~~documentation to DEMHRA that the violation has been corrected by the date under paragraph~~
- 91 ~~(c)(1)a.3.C. of this section, DEMHRA shall cancel and surrender the surety bond or letter of credit to the~~
- 92 ~~community owner and the liability upon the surety bond or letter of credit is discharged.~~
- 93 (e) ~~If a community owner increases rent under subsection (c) of this section and does not provide~~
- 94 ~~documentation to DEMHRA that the violation has been corrected by the date under paragraph (c)(1)a.3.C. of this~~
- 95 ~~section, the rent increase does not take effect and DEMHRA shall do all of the following:~~
- 96 (1) ~~Make a claim on the surety bond or draw on the letter of credit.~~
- 97 (2) ~~Deposit the funds from the surety bond or letter of credit in an escrow account.~~
- 98 (3) ~~Within 30 days of the date under paragraph (c)(1)a.3.C. of this section, send each affected homeowner~~
- 99 ~~the amount of the total rent increase as provided under paragraph (c)(1)b.1. of this section.~~
- 100 (f) ~~DEMHRA may promulgate regulations necessary to implement this section.~~
- 101 (g) ~~The Superior Court has jurisdiction over disputes under this section.~~

102 § 7055. Penalties [For application of this section, see 79 Del. Laws, c. 304, § 7].

103 A community owner who raises a homeowner's rent ~~more than the annual average increase of the CPI-U for the~~

104 ~~preceding 36-month period~~ without complying with this subchapter, must immediately reduce the rent to the amount in

105 effect before the unauthorized increase and rebate the unauthorized rent collected to the homeowners with interest. The

106 Department of Justice ~~shall have~~ has authority over this section.

SYNOPSIS

This Act creates a clearer and workable system for ensuring that manufactured home communities with health and safety violations and conditions that threaten the health and safety of people in the community cannot continue to raise rents on residents without fixing the conditions and providing a safe community for its residents.

Author: Senator Huxtable