



SPONSOR: Sen. McDowell

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 255

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY DURING THE COVID-19 RECOVERY PERIOD.

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

Section 1. The General Assembly finds and declares all of the following:

(1) On March 12, 2020, Governor John C. Carney declared a State of Emergency for the State effective as of March 13, 2020, due to the serious public health threat created by the novel coronavirus, COVID-19.

(2) On March 24, 2020, Governor John C. Carney issued the Sixth Modification of the March 12, 2020 Declaration of a State of Emergency for the State ("Sixth Modification"). This modification, among other things, prohibited summary possession action against residential rental units, prohibited the charging of a late fee or interest on residential rental units, extended deadlines in a summary possession action begun before the state of emergency until 31 days after the termination of the state of emergency, and extended the execution of writs of possession until 7 days following the termination of the state of emergency.

(3) On March 30, 2020, Governor John C. Carney issued the Eighth Modification of the March 12, 2020, Declaration of a State of Emergency for this State. This modification, among other things, limited the amount owed by a holdover tenant to no more than the monthly rental under the previous rental agreement and limited a holdover tenant's liability to those losses the tenant would be liable for under the previous rental agreement.

(4) On April 30, 2020, Governor John C. Carney issued the Fourteenth Modification of the March 12, 2020, Declaration of a State of Emergency for this State. This modification, among other things, clarified that the protections related to summary possession included in the Governor's Sixth Modification also apply to owner occupied manufactured homes on leased land as described in Chapter 70 of Title 25 of the Delaware Code.

(5) Continuation of the protections described in paragraphs (2) through (4) of this Section during the COVID-19 recovery period is in the public interest.

(6) Given the rapidly evolving market conditions and needs, it is also in the public interest to give the Governor the flexibility to impose less restrictive protections or suspend protections to ease the transition back to normal operations.

(7) It is in the public interest to continue the protections in this Act or any lesser restrictions the Governor may impose in a subsequent modification to the Declaration of a State of Emergency related to the protections in this Act, based on changing market conditions and needs.

Section 2. Amend § 5141, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5141. Definitions.

The following words, terms and phrases, when used in this part, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(5) "COVID-19" means any of the following:

a. Severe acute respiratory syndrome coronavirus 2.

b. The disease caused by severe acute respiratory syndrome coronavirus 2.

(6) "COVID-19 order" means a modification to the COVID-19 State of Emergency Declaration or another order issued by the Governor under Chapter 31 of Title 20 and relating to the COVID-19 state of emergency.

(7) "COVID-19 recovery period" means the period beginning immediately upon termination of the COVID-19 state of emergency and continuing until the sixty-first day following the termination of the COVID-19 state of emergency.

(8) "COVID-19 state of emergency" means the state of emergency declared effective by the Governor as of Friday, March 13, 2020, at 8:00 a.m. Eastern Standard Time under the COVID-19 State of Emergency Declaration, and any subsequent state of emergency relating to COVID-19.

(9) "COVID-19 State of Emergency Declaration" means the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat issued by the Governor on March 12, 2020.

(36) "State of emergency" means as defined in § 3102 of Title 20.

Section 3. Amend § 5515, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5515. Landlord's remedies relating to holdover tenants.

(a) Except as is otherwise provided in this Code, whenever either party to a rental agreement rightfully elects to terminate, the duties of each party under the rental agreement shall cease.

(b) Whenever the term of the rental agreement expires, as provided herein or by the exercise by the landlord of a right to terminate given the landlord under any section of this Code, if the tenant continues in possession of the premises after the date of termination without the landlord's consent, such tenant shall pay to the landlord a sum not to exceed double

the monthly rental under the previous agreement, computed and pro-rated on a daily basis, for each day the tenant remains in possession for any period. In addition, the holdover tenant shall be responsible for any further losses incurred by the landlord as determined by a proceeding before any court of competent jurisdiction.

(c)(1) Notwithstanding subsection (b) of this section, all of the following apply during the COVID-19 recovery period:

a. A holdover tenant may not be required to pay a sum that exceeds the monthly rental under the previous rental agreement, computed and pro-rated on a daily basis for each day the holdover tenant remains in possession for any period.

b. A holdover tenant is not liable for further losses incurred by the landlord except to the extent the holdover tenant would have been liable for those losses if those losses had been incurred under the previous rental agreement.

(2) Subject to paragraph (c)(3)a. of this section, paragraph (c)(1) of this section supersedes any protections relating to holdover tenants contained in a COVID-19 order.

(3)a. The Governor may, based on an evaluation of market needs or conditions, issue a COVID-19 order that does the following as it relates to a protection under paragraph (c)(1) of this section:

1. Modifies the protection to impose a less restrictive protection that transitions back toward the applicable law in effect before the COVID-19 State of Emergency Declaration. The less restrictive protection applies during the COVID-19 recovery period.

2. Suspends the protection. The suspended protection does not apply during the COVID-19 recovery period.

b. Nothing in this subsection limits the Governor's power under Chapter 31 of Title 20. However, a protection relating to a holdover tenant in a COVID-19 order that does not comply with paragraph (c)(3)a. of this section does not apply after the termination of the COVID-19 state of emergency.

Section 4. Amend Chapter 57, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5720. Summary possession during the COVID-19 recovery period.

(a) This section does not apply to an action for summary possession based on a claim that continued tenancy will cause or is threatened to cause irreparable harm to person or property.

(b) This section may not be construed to relieve a tenant of the obligation to pay rent or comply with another obligation the tenant has under a rental agreement.

83 (c) Notwithstanding anything to the contrary under this chapter, all of the following apply during the COVID-19
84 recovery period:

85 (1) An action for summary possession may not be brought for a rental unit. A late fee or interest may not be
86 charged to or made to accrue on the account of a tenant.

87 (2) If an action for summary possession of a rental unit was commenced before the COVID-19 State of
88 Emergency Declaration, a deadline in that action is extended until at least the thirty-first day after the termination of
89 the COVID-19 state of emergency. A late fee or interest may not be charged to, or made to accrue on the balance due
90 of, a tenant that is the subject of an action for summary possession under this paragraph (c)(2) of this section.

91 (3) If a rental unit was the subject of an action for summary possession and final judgment was issued before
92 the COVID-19 State of Emergency Declaration, a writ of possession may not be executed on the rental unit before the
93 seventh day after the termination of the COVID-19 state of emergency.

94 (d) Subject to paragraph (e)(1) of this section, subsection (c) of this section supersede any protections relating to
95 summary possession contained in a COVID-19 order.

96 (e)(1) The Governor may, based on an evaluation of market needs or conditions, issue a COVID-19 order that does
97 the following as it relates to a protection under subsection (c) of this section:

98 a. Modifies the protection to impose a less restrictive protection that transitions back toward the
99 applicable law in effect before the COVID-19 State of Emergency Declaration. The less restrictive protection
100 applies during the COVID-19 recovery period.

101 b. Suspends the protection. The suspended protection does not apply during the COVID-19 recovery
102 period.

103 (2) Nothing in this subsection limits the Governor's power under Chapter 31 of Title 20. However, a
104 protection relating to summary possession in a COVID-19 order that does not comply with paragraph (e)(1) of this
105 section does not apply after the termination of the COVID-19 state of emergency.

106 Section 5. Amend § 7016, Title 25 of the Delaware Code by making deletions as shown by strike through and
107 insertions as shown by underline as follows:

108 § 7016. Termination or nonrenewal of rental agreement by landlord; due cause: noncompliance.

109 (h) Section 5720(c) of this title applies to summary possession of a lot in a manufactured home community under
110 this section.

111 Section 6. This Act expires on the sixty-first day following the termination of the COVID-19 state of emergency,
112 unless terminated or extended by subsequent action of the General Assembly.

113 (1) For purposes of this Section, “COVID-19 state of emergency” means as defined in Section 2 of this Act.
114 (2) Within 7 days of the termination of the COVID-19 state of emergency, the Governor shall provide notice
115 of the termination to the Registrar of Regulations. The Registrar of Regulations shall publish the notice in the next
116 issue of the Register of Regulations.

SYNOPSIS

This Act ensures that the consumer protections for Delawareans related to summary possession and tenants holding over in rental units put in place during the COVID-19 state of emergency do not cease immediately on the lifting of the COVID-19 state of emergency, but instead continue for a short period of time during the COVID-19 recovery period. The COVID-19 recovery period runs until the sixty-first day following the termination of the COVID-19 state of emergency.

This Act is intended to set the ceiling for what restrictions may be placed on summary possession and tenants holding over in rental units during the COVID-19 recovery period. This Act is written to give the Governor flexibility to carry out the legislative will of protecting Delawareans while not regulating property more than necessary given the market needs and conditions. If additional executive orders are issued to further ratchet down or slowly ease the transition back to normal operations, those are the protections that will be in effect during the COVID-19 recovery period.

This Act sunsets on the sixty-first day following the termination of the COVID-19 state of emergency.

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