



SPONSOR: Rep. Valihura & Sen. Sokola;  
Reps. Quillen, Stone, Wagner; Sens.  
Venables, Amick, Bonini

HOUSE OF REPRESENTATIVES

141st GENERAL ASSEMBLY

HOUSE BILL NO. 433

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO THE RENTAL OF LOTS IN  
MANUFACTURED HOUSING COMMUNITIES.

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

1 Section 1. Amend Title 25 of the Delaware Code, by striking the descriptive heading of Part IV, Title 25 of the Delaware  
2 Code, in its entirety as it appears therein and by substituting in lieu thereof a new heading to read:

3 “MANUFACTURED HOME RESIDENTS’ AND COMMUNITY OWNERS’ ACT.”

4 Section 2. Amend Subchapter I of Chapter 70, Title 25 of the Delaware Code, by striking Subchapter I of  
5 Chapter 70 in its entirety as it appears therein and by substituting in lieu thereof the following:

6 “CHAPTER 70. MANUFACTURED HOME RESIDENTS’ AND COMMUNITY OWNERS’ ACT.

7 SUBCHAPTER I. Manufactured Housing Community Lot Rental Agreements.

8 § 7001. PURPOSES AND POLICIES; ENFORCEABILITY

9 (a) This Act shall be liberally construed and applied to promote its underlying purposes and policies.

10 The underlying purposes and policies of this Act are:

11 (1) To clarify and establish the law governing the rental of lots for manufactured homes as  
12 well as the rights and obligations of community owners and residents;

13 (2) To encourage community owners and residents to maintain and improve the quality of life  
14 in manufactured home communities.

15 (b) This Act will apply to all rental agreements for manufactured home lots. This Act shall regulate and  
16 determine the legal rights, remedies and obligations of all parties to any rental agreement or lease of  
17 a manufactured home lot within this State, wherever executed. Any rental agreement shall be  
18 unenforceable insofar as the agreement or any provisions thereof conflicts with this Act and is not

expressly authorized herein. The unenforceability of a provision shall not affect other provisions of the agreement, which can be given effect without the void provision.

§ 7002. JURISDICTION

- (a) Any person or artificial entity, whether or not a citizen or resident of this State, who owns, holds ownership or beneficial interest in, uses, manages or possesses real estate situated in this State submits to the jurisdiction of the Courts of this State as to any action proceeding for the enforcement of an obligation arising under this Act.
- (b) A summary proceeding to recover the possession of a rented lot, pursuant to Chapter 57 of this Title, may be maintained in the Justice of the Peace Court in the county where the property is located.
- (c) In the absence of any provisions in this Act governing the relationship between the resident and the community owner, the Residential Landlord/Tenant Code, as set forth in 25 Del.C. §5101 et seq. shall govern the relationship. The Residential Landlord/Tenant Code shall control the rental of manufactured homes. In the event of any conflict between the provisions of this Act and the Residential Landlord/Tenant Code, this Act shall govern for issues pertaining to the rental of lots in manufactured housing communities.

§ 7003. DEFINITIONS

Unless otherwise expressly stated, where terms are not defined under this Act, they shall have ascribed to them their ordinarily accepted meanings, or such as the context may therein imply. For the purposes of this Act, the following definitions shall apply:

- (a) “Community Owner” shall mean the owner of one or more rented manufactured home lots. It shall also mean landlord, lessor, sub-lessor, park owner, manager, operator, or receiver, and includes any person who directly or indirectly receives rents and who has no obligation to deliver the whole of such receipts to another person.
- (b) “Manufactured Home Community” shall mean the use of land where one (1) or more lots are offered for rent or lease for the placement of manufactured homes or where one or more manufactured home lots are already in existence and in which the primary use of the community or manufactured home section thereof is residential.

- 47 (c) “Manufactured Home” shall mean a home transportable in one (1) or more sections, which  
48 in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or  
49 more in length, or when erected on site is more than four hundred (400) square feet. It is  
50 built on a permanent chassis and designed to be used as a year round dwelling with or  
51 without a permanent foundation when connected to the required utilities, and if  
52 manufactured since June 15, 1976, has been built in accordance with Manufactured Home  
53 Construction requirements promulgated by the Federal Department of Housing and Urban  
54 Development (HUD).
- 55 (d) “Resident” shall mean a person who has a tenancy in a manufactured home community  
56 pursuant to a written rental agreement with the community owner. It shall also mean a  
57 tenant or lessee, or a homeowner.
- 58 (e) “Quiet Enjoyment” shall mean that the resident shall enjoy the possession of the premises  
59 in peace and without unwarranted disturbance.
- 60 (f) “Scope of Employment” shall mean actions that fairly and reasonably may be said to be  
61 incidental to the employment or logically and naturally connected with the employment or  
62 are taken in furtherance of duties owed to the employer and where the employer is or  
63 could be exercising some control over the employee’s actions.
- 64 (g) “Court Settlement” shall mean an agreement by which the parties to a law suit, having  
65 disputed matters between them, resolve those matters with court approval.
- 66 (h) “Negligence” shall mean the failure to do something which a reasonable person guided by  
67 those ordinary considerations which ordinarily regulate human affairs would do, or the  
68 doing of something which a reasonable and prudent person would not do.
- 69 (i) “Arbitrary or Capricious” shall mean in an unreasonable manner, without adequate  
70 determining principle; not done or acting according to reasonable judgment.
- 71 (j) “Provision” shall mean a clause, sentence, sentences, single paragraph, or subsection of a  
72 written rental agreement.

- (k) "Utility Charge" shall mean any charge by the community owner or others for water, sewer, electricity, fuel, cable television, trash or other commodity or service of general importance or need.
- (l) "Recreational Vehicle" shall mean a travel trailer, camping trailers, park trailer, campers, or motor homes which are primarily designed as temporary living quarters for recreational camping, seasonal or travel use and which either have their own motor power or are mounted on or drawn by another vehicle.
- (m) "Premises" shall mean a rented lot and the structure upon it, and the facilities and appurtenances thereon, as well as the grounds, common areas and facilities held out for the use of the residents generally, or whose use is contracted for between the community owner and the resident.
- (n) "Rent" shall mean money paid by the resident to the community owner for the possession, use and enjoyment of the premises as required by the rental agreement between the parties, which may include utility charges if the community owner is required to pay the charges on behalf of the resident.
- (o) "Agreement" shall mean written rental agreement for the purpose of this Act.
- (p) "Ownership" shall mean the person within whom is vested the title of the real or personal property.
- (q) "Rental Agreement" shall mean any written agreement between a manufactured home community owner and a resident establishing the terms and conditions whereby a manufactured home is placed or allowed to remain upon a rented or leased lot in a manufactured home community. A lease is a written rental agreement.
- (r) "Occupant" shall mean a person who is a member of the household, lives at the home, and who may or may not be a lessee or resident pursuant to the rental agreement.
- (s) "Guest or Visitor" shall mean any person who is on the rented lot, or common area, with the express or implied permission of the resident or a member of the resident's household and who is not a resident or occupant.

- (t) "Rules" shall mean a written code governing the behavior of the resident, members of the household, occupants, and guests or visitors either residing in or visiting the community.
- (u) "Regulations" shall mean the same as "Rules".
- (v) "Willful" shall mean an act or omission which is done voluntarily and intentionally and with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires, that is to say with bad purpose to disobey or disregard the law.
- (w) "Term" shall mean the time period pursuant to the written rental agreement, which is granted, for the resident to occupy the premises.
- (x) "Amendment" shall mean to alter by modification, deletion, or addition.
- (y) "Standards" shall mean a type, model, or combination of elements found on a rented lot accepted as correct.
- (z) "Fees or Charges" shall mean a monetary obligation related to a service actually furnished to the resident or to an expense incurred as a direct result of the resident's use of the rented lot or the resident's acts or omissions.
- (aa) "Promulgate" shall mean to publish; to announce officially; or to publish as important or obligatory.
- (bb) "Common Areas" shall mean shared land or facilities contained within the community over which the community owner retains control.
- (cc) "Holdover" shall mean to retain possession of the rented lot after the termination, non-renewal, or expiration of the rental agreement.
- (dd) "Reasonable" shall mean fair, proper, just, moderate, suitable under the circumstances, or fit and appropriate to the end in view.
- (ee) "Substantial" shall mean significant, of real importance, or adequate to support a conclusion.
- (ff) "Constructive Eviction" shall mean an intentional act or action by the community owner with the express purpose of rendering the premises unfit or unsuitable for occupancy.
- (gg) "Addendum" shall mean a list or section consisting of added material.

§ 7004. WRITTEN RENTAL AGREEMENT REQUIRED; REQUISITES FOR RENTAL OF  
MANUFACTURED HOME LOT; PENALTIES.

- (a) A written rental agreement must be executed by both the community owner and the approved resident prior to the occupancy of the lot and/or prior to the occupancy of the manufactured home by the approved resident.
- (1) No person may move a manufactured home onto a vacant lot until a written rental agreement has been signed by both the community owner and the approved resident except, a community owner may move a home onto a vacant lot for the purpose of display prior to sale.
- (2) When a manufactured home has been placed on a lot, either by the community owner or a prior resident, the approved resident may not occupy the home or move any personal belongings into the home until a rental agreement has been signed by both the community owner and the approved resident.
- (b) It shall be the duty of the community owner to provide to the resident a copy of this current Act, the rental agreement, and the rules governing the tenancy. This information shall be provided by the community owner to the resident before the rental agreement becomes effective. If a rental agreement was entered into before the effective date of this section, it shall be the duty of the community owner to provide the resident this information within a reasonable period of time after the enactment of this section. It is the further duty of the community owner to provide to the resident a copy of any change in this Act or a copy of this entire Act, within a reasonable time after the enactment of such a change. In no event may a community owner act upon a provision in this Act, the rental agreement, or the rules of the tenancy which has not been provided by the community owner to the resident.
- (c) The rental agreement shall be in writing and shall contain the provisions required by §7014 of this Act and its subparts.
- (d) No person shall offer for rent any manufactured home lot, which does not conform, to the applicable State, county, or municipal statutes, ordinances, or regulations under which that manufactured home community or lot currently exists.

(e) A violation of subsections (a), (b), (c) or (d) of this section may be pleaded by the community owner or the resident in any Court and shall be valid defense or may form the basis for a cause of action for summary possession. In the event of a willful violation of subsection (b), (c), or (d), a civil penalty of up to five hundred dollars (\$500.00) plus actual damages sustained for each violation may be awarded by the Justice of the Peace Court.

§ 7005. EXEMPTIONS

The rental of ground upon which a recreational vehicle, or travel trailer is placed, including any facilities or utilities thereon, is exempted from any and all requirements of this Act, and nothing in this Act shall be construed as determining, regulating, or governing the legal rights of parties to any lease or rental of the ground on which such vehicles are situated.

§ 7006. TERM OF RENTAL AGREEMENT AND RENEWAL/MODIFICATION OF RENTAL AGREEMENT

(a) A community owner shall offer all current and prospective residents a rental agreement for a term of:

- (1) one (1) year; or
- (2) a longer or shorter period as mutually agreed upon by the parties.

(b) Upon the expiration of an existing rental agreement, the agreement shall be automatically renewed unless:

- (1) The resident shall notify the community owner in writing a minimum of sixty (60) days prior to the expiration of the rental agreement that the resident does not intend to renew it; or
- (2) The community owner chooses not to renew, for cause, pursuant to §7010, in which case notification must be made in writing a minimum of sixty (60) days prior to the expiration specifying the acts or omissions constituting the cause; or
- (3) The community owner notifies the resident in writing sixty (60) days prior to the expiration of the rental agreement that a new rental agreement is being offered with modifications related to the amount of the rent and/or modifications related to governmental mandates which directly effect responsibilities contained in the existing

rental agreement. A copy of the mandate must be attached to the offer of a new rental agreement with a written explanation as to the direct effect of the mandate on the existing rental agreement; or

(4) A new rental agreement is mutually agreed upon by the parties.

§ 7007. PROVISIONS PROHIBITED IN THE RENTAL AGREEMENT

(a) A rental agreement shall not contain:

- (1) A provision whereby the resident authorizes any person to confess judgment on a claim arising out of the rental agreement;
- (2) A provision whereby the resident agrees to waive or to forego any right or remedy provided by applicable law;
- (3) Any provision whereby the resident waives the right to a jury trial;
- (4) Any provision authorizing the community owner to take possession of the leased lot, or the resident's personal property therein, without the benefit of formal legal process, unless the rental agreement has been terminated by action of the parties or by operation of law, and such personal property as been abandoned by the resident, as defined in Title 25, §5715(e) and (f);
- (5) Any provision which permits the community owner to collect a fee or charge for late payment of rent without allowing the resident a minimum of five (5) days, beyond the date the rent is due, in which to remit the rent in full;
- (6) Any provision which permits the community owner to charge, for late payment of rent, a charge or fee in excess of twenty-five dollars (\$25.00) or 5% of the rental payment whichever is greater as specified in the rental agreement;
- (7) Any provision allowing the community owner to charge an amount in excess of one (1) month's rent for a security deposit or to retain the security deposit upon termination of the rental agreement if the resident has paid the rent and any fees or charges in full as of the date of termination and has caused no damage to the lot or the community owner's property;



- (8) Any provision allowing the community owner to collect a deposit in excess of one normal billing period for any governmental mandated charge which is the responsibility of the resident and would ultimately become the responsibility of the community owner if not paid by the resident, or to retain such deposit upon termination of the lease if the resident has paid this mandated charge;
- (9) Any provision which prohibits the resident from terminating the rental agreement upon thirty (30) days notice whenever a change in the location of the resident's current employment, requires a change in the location of the resident's residence in excess of 30 miles, except that nothing in this subsection shall be construed to prevent a resident who is a member of the armed forces of the United States from terminating a rental agreement with less than thirty (30) days notice to the community owner if the resident receives reassignment orders which do not allow such prior notification;
- (10) A waiver of any cause of action against, or indemnification for the benefit of the community owner by the resident for any injury or harm caused to the resident, or the resident's family, guests, or property, or the property of the resident's family or guests resulting from any negligence of the community owner, or the community owner's agents, or assigns in the maintenance of the premises;
- (11) Any provisions which denies to the resident the right to treat a continuing substantial violation by the community owner of any agreement or duty protecting the health, welfare, or safety of the residents or occupants, which is set forth in the rental agreement, or which otherwise binds the community owner as a matter of law, as a constructive or actual eviction, and which would otherwise permit the resident to terminate the rental agreement and to immediately cease payments thereunder, provided that the community owner fails to correct the condition giving rise to the violation or fails to cease the violation within a reasonable time after written notice is given by the resident by any method allowed under §7020.

(12) Any provision which prohibits a home “For Sale” sign, however, a community owner may establish reasonable limitations as to the number of signs, the size and placement of the sign.

(13) Any provision which unreasonably limits the freedom of choice in the resident’s purchase of goods and services. The following are exceptions:

- a. No community owner shall be required to allow service vehicles in the manufactured home community in such numbers or with such frequency that a danger is created or any damage could occur to the infrastructure of the manufactured home community; or
- b. A community owner may restrict the trash collection to a single provider; or
- c. A community owner may select a shared utility.

(14) Any provision which provides for the recovery of attorney’s fees by either party in any suit, action, or proceeding arising from the tenancy.

(15) Any provision which violates any federal, State, or local law or regulation, including this Act.

(16) Any provision which requires an existing resident to:

- a. Sell or transfer a manufactured home to the community owner; or
- b. Buy a manufactured home from the community owner; or
- c. Sell a manufactured home through the services of the community owner.

(17) Any provision which requires the resident to provide the community owner with a key to the manufactured home or any appurtenances thereto.

(18) Any provision that limits the use of satellite dishes/television antennas that conflicts with federal law or FCC regulations.

(b) If, after an action is brought by a resident, it is established by an enforcement body of competent jurisdiction and after the exhaustion of all appeals, if any are taken, that a rental agreement contains provisions in violation of any part of this subsection, then:

- (1) The community owner shall remove the section which violates section (a) of this subsection, and provide the affected residents by regular mail with either an

amended rental agreement or corrective addendum to the rental agreement within thirty (30) days of the exhaustion of all appeals if any are taken.

(2) The community owner shall be liable to that resident for actual damages suffered by that resident as a result of the violation plus court costs if any.

(c) If it is established that a community owner has willfully, as defined herein, included in the rental agreement a provision in violation of section (a) of this subsection, then the resident shall be entitled to recover three (3) months rent plus the court costs of the suit.

§ 7008. COMMUNITY OWNER FEES AND CHARGES

(a) For the purpose of this Act the terms, “fees and charges” are used interchangeably.

(b) All fees or charges by the community owner must be clearly disclosed in the rental agreement or in a schedule attached to the rental agreement. No additional fees or charges may be added to the rental agreement upon the renewal or at any other time unless it is by mutual consent of the parties or as a result of a government mandate. Existing fees may be adjusted pursuant to (f) of this section.

(c) A community owner may charge a fee if it relates to a service actually furnished to the resident or to an expense incurred as a direct result of the resident’s use of the rented lot, or by the resident’s acts or omissions. Failure to pay a fee under this provision may be the basis for termination of the rental agreement as provided for in Section §7010. Such fees may include, but are not limited to:

(1) A late payment fee if rent is not paid within five (5) days of the date specified in the rental agreement.

(2) A late payment charge for nonpayment of any fee.

(3) An application fee. A community owner may charge an application fee not to exceed the greater of either 20% of the monthly rental for the lot or fifty dollars (\$50.00). A community owner shall provide the resident, upon request, with a written receipt for any application fee. The community owner shall maintain records of all application fees charged and amounts received for a period of two years. Where the community owner demands and receives more than the allowable application fee, the resident shall be entitled to damages equal to double the amount charged as an application fee by the community owner.

293 (4) Any other fee set forth by the rental agreement.

294 (d) A community owner may also charge an optional users fee for the use of certain facilities. Failure

295 to pay a fee under this provision may be the basis for termination of the rental agreement as

296 provided for in §7010. Such fees may include, but are not limited to:

297 (1) Use of a pool.

298 (2) Use of marine facilities.

299 (3) Use of tennis courts.

300 (e) The amount of any fee charged must be reasonably related to the cost of providing the service upon

301 which the fee is based.

302 (f) A fee may not be increased more than once during any twelve (12) month period, regardless of the

303 term of the rental agreement. The community owner shall notify the resident in writing of any

304 increase at least sixty (60) days prior to the effective date of the increase. A fee increase is

305 unenforceable unless proper notice has been given.

306 (g) An entrance or exit fee is prohibited. An entrance fee is any fee charged to a resident, prior to

307 occupancy, which is not an application fee or a fee for utilities or direct services actually rendered

308 in readying the lot for the tenancy. An exit fee is any fee charged after the home has either been

309 sold or removed from the rented lot, which is not related to direct services actually rendered to

310 return the lot to a rentable condition.

311 § 7009. TERMINATION OF RENTAL AGREEMENT BY RESIDENT.

312 (a) If the community owner fails to substantially conform to the rental agreement, or if there is a

313 material non-compliance with this Act or any statute, ordinance, or regulation governing the

314 maintenance or operation of the lot, the resident may, on written notice to the community owner,

315 terminate the rental agreement and vacate the lot by removing the home and all personal

316 possessions at any time during the first month of occupancy. The resident will have no further

317 obligation to pay rent from the date of vacating the lot. The resident shall retain the right to

318 terminate beyond the first month of occupancy so long as the resident remains in possession in

319 reliance on the written promise by the community owner to correct all or any part of the condition

320 or conditions which would justify termination by the resident under this section.

- (b) If there exists any condition which deprives the resident of a substantial part of the benefit and enjoyment of the bargain, the resident may notify the community owner in writing of the condition and if the community owner does not remedy the condition within fifteen (15) days from the date of mailing, the resident may terminate the rental agreement and vacate the premises by removing the home and all personal possessions. The resident will have no further obligation to pay rent from the date of vacating the lot. Such notice need not be given where the condition renders the home uninhabitable or poses an imminent threat to the health, safety and welfare of the resident.
- (c) The resident may not terminate the rental agreement for a condition caused by lack of due care by the resident, a member of the resident's family, or any other person on the lot with the resident's consent.
- (d) If the condition referred to in (a) or (b) of this section was caused by the community owner, the resident may recover any damages sustained as a result of the condition including, but not limited to, reasonable expenditures necessary to obtain adequate substitute housing while the home is uninhabitable prior to the termination of the rental agreement by the resident and for a reasonable length of time following the termination of the rental agreement.

§ 7010 TERMINATION OF RENTAL AGREEMENT BY COMMUNITY OWNER.

- (a) The community owner may not terminate the rental agreement before it expires or refuse to renew the rental agreement without due cause. Due cause shall mean:
- (1) A change in the use of the land as specified in subsection (b) of this section; or
  - (2) Nonpayment of the rent, fees or charges as specified in subsection (d)(3) of this section; or
  - (3) Clear and convincing evidence that the resident's acts or omissions resulted in substantial noncompliance with the rental agreement or a material noncompliance with any statute, rule or regulation governing the administration or maintenance of the community as specified in subsections (c) or (d)(1) or (d)(2) or (e) of this section; or
  - (4) Clear and convincing evidence that conduct of a resident, member of the resident's family, guest, or occupant of the resident's home caused or threatens to cause immediate and irreparable harm to any person or property in the community. Such conduct includes, but is not limited to, arson or burglary; or

- (5) Conviction of a crime by a resident, member of the resident's family, guest, or occupant of the resident's home the nature of which caused immediate and irreparable harm to any person or property in the community. Such crimes include, but are not limited to, arson or burglary; or
- (6) Clear and convincing evidence of illicit drug activity or illicit drug dealing of any nature shall be considered due cause for immediate termination of the rental agreement without prior notice.
- (b) If a change is intended in the use of the land and the community owner intends to terminate a rental agreement due to a land use change, a community owner shall notify the resident in writing that the land use change is the basis for a termination of the resident's rental agreement and termination will take place in not less than one hundred eighty (180) days. For the purposes of this Act, change in use of land does not include any land use change which is contemplated by Chapter 71 of this Title.
- (c) A community owner may terminate a rental agreement immediately upon notice where the resident's noncompliance results from:
- (1) Clear and convincing evidence of conduct which is likely to cause immediate and irreparable harm to any person or property in the community; or
- (2) Conviction of a crime, the commission of which was likely to cause immediate and irreparable harm to any person or property in the community; or
- (3) Clear and convincing evidence of a material misrepresentation of the resident's application to rent a lot which, if the truth were known, would have resulted in the denial of the application.
- (d) A community owner may terminate a rental agreement by providing prior written notice as set forth below:
- (1) When the resident's noncompliance involves an act that results in the disruption of the rights of others to the quiet enjoyment of the premises, the community owner shall notify the resident in writing to immediately cease and not repeat the act. The notice shall specify the act which forms the basis for the notice and notify the resident that if substantially the same act of noncompliance recurs within six (6) months, then the community owner may

377 immediately terminate the rental agreement and bring an action for summary possession.

378 If a second substantially similar act of noncompliance occurs after the six (6) month  
379 period, then subsection (e) of this section shall apply; or

380 (2) When the noncompliance is based upon a condition on or of the premises or in the  
381 community, the community owner may notify the resident in writing specifying the acts or  
382 omissions constituting the noncompliance and allow the resident twelve (12) days from the  
383 date of mailing or personal service whichever occurs first, to remedy the noncompliance.

384 If the resident remains in noncompliance at the expiration of the twelve (12) day period,  
385 the community owner may immediately terminate the rental agreement and bring a  
386 proceeding for possession of the premises; or for

387 (3) Nonpayment of rent or fees. Rent is due on the date indicated in the rental agreement. If  
388 rent is not received by the fourth day thereafter or during the grace period stated in the  
389 rental agreement, the community owner may notify the resident in writing demanding  
390 payment and stating that unless the required payment is made within seven (7) days from  
391 the date of mailing or personal service, whichever occurs first, the rental agreement shall  
392 be terminated. If the resident remains in default, the community owner may terminate the  
393 rental agreement and bring any proper legal action to recover the rent due and possession  
394 of the premises.

395 (e) Where there are repeated instances of noncompliance with the rental agreement, any rule or  
396 regulation material to the rental agreement, or any provision of this Act, even when corrected by the  
397 resident, the community owner may immediately terminate the rental agreement and bring a  
398 proceeding for possession and any monies due or refuse to renew pursuant to §7006.

399 (1) Repeated instances of noncompliance may include the following:

- 400 a. failure on three (3) separate occasions within a twelve (12) month period to make  
401 rent payment by the fourth (4<sup>th</sup>) day after the due date or during the grace period  
402 stated in the rental agreement resulting in notice being sent pursuant to  
403 §7010(d)(3); or

- b. failure on two (2) separate occasions in a three (3) year period, where the rental agreement calls for an annual rent payment to make rent payment by the fourth (4<sup>th</sup>) day after the due date or during the grace period stated in the rental agreement resulting in notice being sent pursuant to §7010(d)(3); or
- c. failure on two (2) separate occasions in a twelve (12) month period to reimburse a community owner within seven (7) days of notice from the community owner to the resident that the community owner has paid the resident's utility charge; or
- d. tender on three (3) separate occasions in a twelve (12) month period of a bank draft or check which is dishonored by a financial institution for any reason, except in the case of mistake by the financial institution; or
- e. three (3) separate incidents of noncompliance as described in §7010(d)(1) or (d)(2) within a twelve (12) month period; or
- f. four (4) separate and single incidents of noncompliance as described in any portion of § 7010(e)(1) a. – e. within a twelve-(12) month period.

(2) The community owner may not terminate a rental agreement or refuse to renew a rental agreement pursuant to § 7010(e)(1) a. – f. unless the community owner has notified the resident that any subsequent noncompliance as described in § 7010(e)(1) a. – f. will result in either the immediate termination of the rental agreement or the non-renewal of the rental agreement at its expiration.

(3) When a resident is in noncompliance on one (1) occasion as described in § 7010(e)(1) b. or c., the community owner must notify the resident that any further instance of noncompliance may result in either the immediate termination of the rental agreement or non-renewal of the rental agreement at the time of its expiration.

(f) In an action for summary possession based on nonpayment of rent, the resident shall be entitled to raise by defense or counterclaim any claim against the community owner that is related to the rental of the lot.

(g) Any notice sent to a resident advising the resident that the rental agreement is or will be terminated shall specify the reasons for such action in sufficient detail so that the dates, places, and



circumstances concerning the termination are clear. Reference to or the recital of the language of this Act is not sufficient.

- (h) A community owner's right to terminate prior to the expiration of the rental agreement or refuse to renew at its expiration does not arise until the community owner has complied with the applicable notice provision for the section or sections upon which the community owner is relying.

§ 7011. HOLDOVER REMEDIES AFTER RENTAL AGREEMENT IS TERMINATED, NON-RENEWED, OR EXPIRES.

Following a determination by the court, if a resident continues in possession of the premises after the termination, non-renewal, or expiration of the rental agreement, without the consent of the community owner, the resident shall be liable for, and the community owner shall be entitled to receive, the payment of double the periodic rent under the previous agreement, but only if the resident's holdover is not in good faith. The double rent shall be computed and prorated on a daily basis for each day the resident remains in possession of the lot after the rental agreement has been terminated, non-renewed, or has expired.

§ 7012. EFFECT OF UNSIGNED ADDENDUM OR RENEWALS TO THE RENTAL AGREEMENT, EFFECT OF UNSIGNED RENTAL AGREEMENT.

- (a) If the community owner submits a signed addendum or renewal of the rental agreement to the resident, and the resident does not sign the addendum or renewal, then the payment of rent and acceptance of and/or possession of the lot by the resident shall be deemed to be an acceptance of the terms as submitted by the community owner.
- (b) If the community owner does not sign a written addendum or renewal to the rental agreement, which has been signed by the resident and tendered to the community owner, in the form originally submitted by the community owner, then receipt and use of the rent by the community owner shall be deemed to be an acceptance of the addendum or renewal.
- (c) If the resident clearly alters or attempts to amend the addendum or renewal to the rental agreement, prior to signing and returning it to the community owner, and if the community owner does a written reservation of rights, and delivers it to the resident, after receipt of the altered addendum or renewal and prior to use of the rent, then the amended addendum or renewal to the rental agreement shall be deemed to have been rejected by the community owner. If the community owner does not

do a written reservation of rights and deliver it to the resident, after receipt of the altered addendum or renewal and prior to the use of the rent, it shall be deemed to be an acceptance of the amended or altered addendum or renewal of the rental agreement.

(d) If the community owner submits a signed rental agreement to the resident, or potential resident, and the resident does not sign the agreement, then the payment of rent and acceptance of possession by the resident or potential resident shall be deemed to be an acceptance of the terms as submitted by the community owner.

(e) If the community owner does not sign a written rental agreement which has been signed by the resident and tendered to the community owner, in the form originally submitted by the community owner, then receipt and use of the rent by the community owner shall be deemed to be an acceptance of the rental agreement.

(f) If the resident or potential resident alters or attempts to amend the rental agreement, prior to signing and returning it to the community owner, and if the community owner does a written reservation of rights, and delivers it to the resident, after receipt of the altered rental agreement and prior to use of the rent, then the agreement shall be deemed to have been rejected by the community owner. If the community owner does not do a written reservation of rights, and deliver it to the resident, after receipt of the altered rental agreement and prior to the use of the rent, it shall be deemed to be an acceptance of the amended or altered agreement.

(g) Where a rental agreement is created by the operation of this subsection, it shall operate to create an agreement for a one- (1) year term.

#### § 7013. SECURITY DEPOSIT

(a) If a rental agreement requires the resident to provide any deposit to the community owner, to be held for the term of the rental agreement, or any part thereof, said deposit shall be considered a security deposit. Security deposits shall be returned in full to the resident after the termination of the rental agreement provided that the resident has paid all rent, fees and charges due in full for the term of the rental agreement, has caused no actual damages to the leased premises, and left the lot clean and free of debris, and paid government mandated charges as specified in §7007 (a)(8). Upon recovering possession of the rented lot, the community owner must provide the resident with a

notice containing an itemized list of the damages to the premises and the estimated or actual cost of repair within thirty (30) days of the recovery of possession of the lot. Using the itemized list the community owner shall tender payment for the difference if any between the security deposit and the estimated or actual cost of repair of damages to the premises. The resident's acceptance of this payment shall constitute agreement as to the damages as specified by the community owner.

- (b) Failure of the community owner to provide the required itemized list of deductions within thirty (30) days of recovery of the possession of the lot shall constitute agreement by the community owner that no damages are due, and the community owner shall immediately remit to the resident the full amount of the security deposit.
- (c) Failure of the community owner to remit the security deposit or the remainder of the deposit after deductions within thirty (30) days of the recovery of possession shall entitle the resident to double the amount wrongfully withheld. Failure by the community owner to pay a judgment for the security deposit within twenty (20) days of the entry of the judgment shall be considered as a contempt of court and shall subject the community owner to penalties prescribed by law.
- (d) Failure by the resident to provide the community owner with a forwarding address prior to vacating the lot shall relieve the community owner of the responsibility to give the required notice and of the liability for double the amount of the security deposit withheld. The community owner shall continue to be liable to the resident for any unused portion of the security deposit provided the resident makes a claim therefor in writing within one (1) year of the recovery of possession of the lot by the community owner.

§ 7014. PROVISIONS OF MANUFACTURED HOME COMMUNITY RENTAL AGREEMENTS

All rental agreements hereinafter executed or renewals of agreements currently existing between a community owner and a resident in a manufactured home community in this State shall contain, or shall be made to contain, the following provisions:

- (a) The community owner shall agree at all times during the tenancy to:
  - (1) maintain the premises in such a manner as to protect the health and safety of the residents including maintaining the ground at a level such that the manufactured home

will not tilt from the original position unless caused by the actions of the resident or the resident's agents;

- (2) keep each lot in the community marked in such a way that each resident will be certain of the resident's area of responsibility;
- (3) keep all common areas free of noxious plant growth which is detrimental to the health of residents;
- (4) Be responsible for the extermination of insects, vermin, or other pests dangerous to the health of the residents whenever infestation exists in any common area or on unoccupied lots;
- (5) maintain all electrical, water, gas, fuel oil, sewer, and septic systems that are provided by the community owner under the terms of the rental agreement in a safe and sanitary condition and in compliance with applicable provisions of State and local code(s). The community owner shall at all times be responsible for the exercise of the reasonable care in assuring that such systems are and remain in proper working order. In emergencies, repairs by the community owner must be completed within 48 hours or the community owner must show good cause why such repairs were not immediately possible.
- (6) respect the privacy of the residents and only enter the resident's manufactured home or any other property of the resident if emergency circumstances exist which threaten life or property.
- (7) maintain all roads within the manufactured home community in good condition and provide adequate parking for two (2) cars for each lot in an area that does not block traffic within the community.
- (8) the community owner shall be required to maintain all common areas and facilities of the community, including club houses, pools, golf courses, tennis courts, marinas and playgrounds, in a clean, safe, sanitary and neat condition at all times. With respect to all common grounds, this would include, but is not limited to, cutting grass, trimming shrubs, pruning trees, raking and removal of leaves and related debris. As to common

buildings or structures, they must be continually maintained in proper working condition. All common areas and facilities must be kept free of all garbage, rubbish, and debris.

(b) The resident shall agree at all times during the tenancy to:

(1) abide by all reasonable community rules and standards that are attached to, and therefore, a part of, the rental agreement at the original signing, or that may be amended pursuant to § 7015(b) and § 7016(e) of this Act.

(2) maintain the plumbing, septic, electric service or any other utility and fixtures which are the resident's responsibility in the rental agreement in a safe, sanitary condition and in compliance with the applicable provisions of State and local code(s). The resident shall at all times be responsible for the exercise of reasonable care and proper use and operation of the basic utilities.

(c) If, and only if, the rental agreement permits subleasing, then:

(1) if the resident enters into an agreement to rent the manufactured home to another, then the resident must include in that rental agreement all rules and manufactured home standards included in the resident's rental agreement pursuant to this Act which could form the basis for an action for summary possession of that lot.

(2) if the resident enters into such an agreement, then that agreement shall be governed exclusively by the Residential Landlord/Tenant Code 25 Del.C. § 5101 et seq. as amended.

(d) No party other than the resident, or the estate of the resident, shall be responsible to the community owner for payment of rent under the terms of the rental agreement.

#### § 7015. RULES

(a) A community owner may promulgate reasonable written rules concerning the occupancy of the lot and use of all community premises provided that such rules further any of the following purposes:

- (1) promoting the residents' health, safety, or welfare; or
- (2) promoting the residents' quiet enjoyment; or
- (3) preserving the residents' property values; or

571 (4) promoting the orderly and efficient operation of the manufactured home community; or

572 (5) preserving the community owner's property from abuse.

573 (b) A community owner may also promulgate written guidelines for granting exceptions to these rules  
574 based on financial hardship or other extenuating circumstances if they further one or more of the  
575 purposes set forth in subsection (a) above and are not arbitrary and capricious.

576 (c) A community owner may amend existing rules at any time, but such amendment shall not be  
577 effective until the later of the date specified therein or sixty (60) days after the community owner  
578 delivers to the resident written notice of the amendment.

579 § 7016. MANUFACTURED HOME STANDARDS

580 (a) A community owner shall adopt reasonable written standards regarding the size, quality,  
581 appearance, construction, materials, and safety features for the manufactured home entering the  
582 community.

583 (b) A community owner may refuse to allow the placement on a lot of a manufactured home, which  
584 does not comply with standards adopted pursuant to subsection (a) above.

585 (c) A community owner may adopt written reasonable standards regarding resale of homes within the  
586 community. These standards shall only relate to appearance, maintenance, safety, compliance with  
587 community rules, and compliance with State and local housing, building or health codes and the  
588 1976 HUD Code.

589 (d) No standard(s) may be arbitrarily or capriciously enforced. The community owner may choose to  
590 not enforce a standard(s) based upon the needs of an individual resident without waiving the right  
591 to the later enforcement of the standard(s) as to that resident or any other resident.

592 (e) A community owner may amend existing standards at any time, but such amendment shall not be  
593 effective until the date specified therein or sixty (60) days after the community owner delivers to  
594 the resident written notice of the amendment, whichever is later.

595 § 7017. RENT ADJUSTMENTS

596 A resident's rent may not be increased more than once during any twelve (12) month period regardless  
597 of the term of the tenancy or the term of the rental agreement. The community owner shall give written notice a  
598 minimum of sixty (60) days prior to the effective date of the rental adjustment.

§ 7018. MANUFACTURED HOME TRANSFER

This section shall govern the terms of all rental agreements at the time of the sale or transfer of title of a manufactured home located in a manufactured housing community.

(a) A new rental agreement shall be offered to any person to whom a home has been sold or title to a manufactured home transferred subject to the following requirements being satisfied:

(1) The current resident must have given the community owner written notice of the intent to sell or transfer title to the home twenty-one (21) days prior to the date of transfer of the title. The written notice shall contain the name, current address and a completed application for the transferee. The written notice shall constitute a valid notice of termination of the existing rental agreement effective upon the issuance of a new rental agreement to the transferee.

(2) The home being transferred must meet the standards established pursuant to §7016 of this Act either as they pertain to the initial placement of the home or those governing whether a home may remain on the lot at the time of transfer of title.

(3) The title transferee must satisfy the same qualifications that are otherwise applicable to any one who applies to become a new resident.

(b) Transfer of the title to the home prior to approval of both the home and the proposed new resident shall be cause for termination of the rental agreement and for an action for summary possession of the lot.

(c) If the existing rental agreement has less than two (2) years of its term remaining, then the community owner may offer a new rental agreement, which may contain new terms and provisions.

(d) If the existing rental agreement has two (2) years or more remaining in its term, then the community owner shall offer a new rental agreement for a duration at least as long as that which remained on the existing rental agreement. The new agreement may contain new terms and provisions; however, it shall be subject to the same provisions governing rent.

(e) If more than five (5) years remain on the existing agreement, then the new agreement may provide for rent adjustment at the expiration of five (5) years. This section shall not prohibit the community owner from enforcing any rent adjustments contained in the prior agreement and incorporated into the new agreement even if they would occur in the initial five (5) years of the new agreement.

§ 7019. RETALIATORY ACTIONS PROHIBITED

- (a) Retaliatory acts or acts of physical violence are prohibited.
- (b) A retaliatory act is an attempt on the part of the community owner to: pursue an action for summary possession; terminate the rental agreement; cause the resident to move from the lot involuntarily; or decrease services to which the resident is entitled under the rental agreement, after:
  - (1) the resident has complained in good faith of a condition(s) affecting the lot which constitutes a violation of this Act or any housing, health, building, sanitation, or other applicable statute or regulation, to either the community owner or to any authority charged with enforcement; or
  - (2) an authority has instituted an enforcement action for a violation of this Act or a violation of a building, housing, sanitary, or other code or ordinance with respect to the resident's lot; or
  - (3) the resident has formed or participated in any manufactured home residents' organization; or
  - (4) the resident has filed a suit against the community owner or its agent for any reason.
- (c) If the resident proves that the community owner has instituted any of the actions set forth in (a) or (b) above within ninety (90) days of any complaint or act found in (b) (2) – (4) then such conduct shall be presumed to be a retaliatory act.
- (d) It shall be a defense to a claim that the community owner has committed a retaliatory act or act of violence, if the community owner can prove that:
  - (1) the community owner has cause for termination of the rental agreement pursuant to §7010 or §7006 and has given the required notice; or
  - (2) the complaint or request of the community owner relates to a condition(s) caused by the lack of ordinary care by the resident, or occupant, or guests on the premises with the resident's consent; or
  - (3) the rented lot was in substantial compliance with all applicable statutes and regulations on the date of the filing of the resident's complaint or request; or
  - (4) that the condition complained of was impossible to remedy prior to the time for appropriate notice or prior to the end of the rental term.



- (e) Any resident subjected to a retaliatory act as set forth in (a) or (b) above, in violation of this section, shall be entitled to recover the greater of three (3) months rent, or treble the damages sustained by the resident plus the cost of the suit.

§ 7020. DELIVERY OF WRITTEN NOTICE

- (a) Any notice required by this Act may be served personally upon the resident by leaving a copy thereof at the dwelling place with an adult person residing therein. Any notice required by this Act may be served upon the community owner personally or on any other person in the employ of the community owner whose responsibility it is to accept such notice. If the community owner is a corporation, firm, or unincorporated association, service of the notice may be made by leaving a copy thereof at its office or place of business with an agent authorized by appointment to accept such notice or by law to receive service of process; or
- (b) In lieu of personal service, any notice required by this Act may be sent either by regular first class mail with proof of mailing, or by registered or certified mail, postpaid, to the resident at the resident's address of record. The address of record shall be the address of the leased lot unless the resident has provided an alternative address in writing to the community owner. Any notice required by this Act may be sent either by regular first class mail, with proof of mailing, or by registered or certified mail, postpaid, to the community owner at the last known dwelling place, or at the community owner's last known office or place of business.
- (c) The proof of mailing on US Postal Service Form 3817, or its successor, or in the case of registered or certified mail, return receipt, signed or unsigned, shall constitute valid service of any notice under this Act.
- (d) In the alternative, service of notice or process may also be obtained by either one of the following two alternatives:
- (1) posting of the notice on the home on the rented lot, when combined with a return receipt or certificate of mailing; or
  - (2) personal service by a special process-server appointed by the Court.

§ 7021. ENFORCEMENT AND PENALTIES

To the extent that a community owner violates any section of this Act that violation shall be within the scope of the enforcement duties and powers of the Consumer Protection Unit, or its successor, of the Attorney General's Office.

§ 7022. RESIDENT'S OBLIGATION TO PERMIT REASONABLE ACCESS

- (a) The resident shall permit the community owner reasonable access to the lot between the hours of 8:00 AM and 7:00 PM in order to inspect the premises, to make necessary repairs, decorations, alterations or improvements, or to supply services agreed upon in the rental agreement.
- (b) The community owner has the right to immediate access to the lot to remedy emergency situations.
- (c) The community owner shall not use this right of access to harass the resident nor shall it be used to invade the privacy of the resident.

SECTION 3. Amend Chapter 70, Subchapter II, Tenant's Receivership Title 25 of the Delaware Code by adding thereto a new §7030 as follows:

§ 7030. 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:

- (a) "Cost Certification" shall mean a written reconciliation of the rent, fees and related income and the expenses incurred by the receiver during the course of the receivership which shall be conducted prior to concluding the receivership.
- (b) "Surplus Money" shall mean any balance remaining in the receivership escrow account subsequent to the satisfaction of all direct expenses incurred by the receiver.
- (c) "Posting Security" shall mean a performance bond, an irrevocable letter of credit, a deed to real estate, a cashier's check, escrow account, or other negotiable instrument to complete the work the performance of which it is being offered to guarantee.
- (d) "Legal Rate of Interest" shall mean the legal rate of interest as defined in Title 6, Del.C. §2301(a-c).
- (e) "Other Related Income" shall mean any income derived from:
  - (1) interest on any security deposit not contrary to any other statute; and
  - (2) the operating account(s) of the entity which owns or operated the community; and

708 (3) other funds accounts, and interest thereof if:

709 (a) it was established for the maintenance, operation or improvement of the property; or

710 (b) it was routinely used during the past four-(4) years to operate, maintain or improve the

711 community.

712 (f) "Administrative Order" shall mean the final disposition of a matter before an administrative

713 agency.

714 (g) "Consent Decree" shall mean an agreement by an entity to cease activities asserted as illegal by the

715 government. It binds only the consenting parties and is not binding upon the Court.

716 (h) "Beneficial Interest" shall mean one who does not have the title to property but has rights in the

717 property which are the normal incident of owning the property."

718 Section 4. The provisions of this Act shall become effective on September 15, 2002, and shall thereafter apply to

719 all rental agreements covered by this Act which are entered into after the enactment date of this Act and apply to all rental

720 agreements covered by this Act which were entered into or renewed before the enactment date of this Act as of June 30,

721 2004."

#### SYNOPSIS

This Act creates a Manufactured Home Residents and Community Owners Act and excludes rental agreements for the rental of manufactured homes from its application.