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DELAWARE STATE SENATE
144th GENERAL ASSEMBLY

SENATE BILL NO. 122

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MANUFACTURED HOUSING
COMMUNITY CLOSURES AND RESIDENT OWNERSHIP OF MANUFACTURED HOUSING COMMUNITIES.

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

- 1 Section 1. Amend Title 25, Delaware Code by adding a new § 7001B to read as follows:
- 2 “§7001B. Manufactured Housing Community Closures.
- 3 The General Assembly finds that:
- 4 (1) Manufactured housing communities provide a significant source of homeownership opportunities for
- 5 Delaware residents. However, the increasing closure and conversion of manufactured housing communities to
- 6 other uses, combined with increasing manufactured housing lot rents, low vacancy rates in existing
- 7 manufactured housing communities, and the extremely high cost of moving homes when manufactured
- 8 housing communities close, increasingly make manufactured housing community living insecure for
- 9 manufactured housing homeowner residents.
- 10 (2) Many residents who reside in manufactured housing communities are low-income households and seniors
- 11 who are most in need of reasonable security in the siting of their manufactured homes because of the adverse
- 12 impacts on their health, safety and welfare if they are forced to move due to closure, change of use or
- 13 discontinuance the community.
- 14 (3) The preservation of manufactured housing communities:

- 15 a. Is a more economical alternative than providing new replacement units for homeowner residents who
16 are displaced from closing manufactured housing communities;
- 17 b. Is a strategy by which all local jurisdictions may meet the affordable housing needs of their residents;
18 and
- 19 c. Should be a goal of all local governments.
- 20 (4) The loss of manufactured housing communities should not result in a net loss of affordable housing thus
21 compromising a local jurisdiction's ability to meet the affordable housing needs of its residents.
- 22 (5) The closure of manufactured housing communities has serious environmental, safety and financial impacts
23 including:
- 24 a. Manufactured homes that cannot be moved to other locations add to Delaware's landfills;
25 b. Homes that are abandoned attract crime; and
26 c. Vacant homes that are not to be re-occupied need to be tested for asbestos and lead and these toxic
27 materials need to be removed prior to demolition.
- 28 (6) Homelessness caused by closure of manufactured housing communities creates public health and safety
29 problems, particularly for the elderly and children, and undermines the local economy by depriving members
30 of the workforce of housing.
- 31 (7) Homeownership, including ownership of a manufactured home, is an important right that deserves public
32 protection.
- 33 (8) Manufactured housing community residents who own the real estate as well as their homes are able to
34 exercise self-governance and experience fewer societal conflicts, resulting in reduced use of police resources.
- 35 (9) Owners of manufactured homes have significant investments in their homes, both in absolute terms and as a
36 percentage of earnings and assets.
- 37 (10) Although often referred to as 'mobile' homes, manufactured housing, once sited, is not only difficult and
38 expensive to move but is often impossible to move. When the home is moveable, the cost of moving it is
39 typically equivalent to five to ten years of built-up equity in the home. This built-up equity is stripped from
40 the home if it has to be moved.
- 41 (11) Owners of manufactured homes do not have access to accurate information about the likelihood of
42 community closure at the time they place their homes in manufactured housing communities.

- (12) Since manufactured home owners can move to another community only with great difficulty and at great economic sacrifice, they fear eviction and lack bargaining power in comparison to manufactured housing community owners.
- (12) Through trade associations, publications, private networks and listing services, community owners keep abreast of inter-investor offers and sales of communities, but manufactured home owners lack access to these sources of information.
- (13) Grant of a right to notice and opportunity to purchase the community is a necessary step in balancing the rights and needs of manufactured home owners against the desire of community owners to receive market value for their investments.
- (14) Grant of a right to notice and an opportunity to purchase the community has no effect on the community owner's ability to receive full market value, as it merely enables manufactured home owners to meet any offer the community owner has received.
- (15) Community owners do not have any legitimate business interest in directing sale of manufactured housing communities only to other similarly situated investors and not to community residents.
- Section 2. Amend Title 25, Delaware Code by deleting §7026, and by adding a new §7001C to read as follows:
- “§7001C. Notice Required Before Sale.
- (a) No manufactured housing community owner shall make a final unconditional acceptance of any offer for the sale, lease, or transfer of a manufactured housing community, or any portion of a community (other than a lease of a lot to a resident) without first giving 90 days' notice to each resident and to the Delaware State Housing Authority, containing the following information:
- (1) That the owner intends to sell, lease, or transfer the manufactured housing community;
- (2) The price, terms and conditions of the offer the community owner has received and intends to accept, including a copy of any such offer; and
- (3) A statement that for 90 days following the notice the owner will not make a final unconditional acceptance of an offer to purchase, lease, or transfer the community, and that during this period the residents have the opportunity to make an offer to purchase, lease, or otherwise acquire the community.
- (b) The notice required by subsection (a) of this section shall be served by certified mail, return receipt requested, to each resident at such resident's abode and to the Delaware State Housing Authority at its main office. A receipt from the United States Postal Service that is signed by any adult member of the household to which it was mailed, or a notation on the letter that the letter was refused by any adult member of the resident

household, or that the addressee no longer resides there, or that the letter was returned to the post office unclaimed, shall constitute a conclusive presumption that service was made in any court action in this state. A receipt from the United States Postal Service that is signed by an employee of the Delaware State Housing Authority shall constitute a conclusive presumption that service was made on the authority in any court action in this state.

(c) The residents shall have the right, within 90 days following notice under subsection (a) of this section, to propose to purchase, lease, or otherwise acquire the community through a group formed by residents and open to all residents or a nonprofit 501(c)(3) corporation to which the resident group may choose to assign its rights hereunder. During this 90-day period, the community owner shall not make a final unconditional acceptance of any offer to purchase, lease, or transfer the community.

(d) During the notice period required under subsection (a) of this section, the manufactured housing community owner shall consider any offer received pursuant to subsection (c) and the owner shall negotiate in good faith with the residents or nonprofit corporation concerning a potential purchase, lease, or transfer.

(e) If an offer made pursuant to subsection (c) of this section contains a price, terms, and conditions that are substantially equivalent to those in the offer the community owner intends to accept or the price, terms, and conditions on which the community owner has offered the community, then the resident group or the nonprofit 501(c)(3) corporation assignee of the residents shall have the right to purchase the community.

(f) An offer made pursuant to this section shall be evidenced by a purchase and sale agreement or a comparable agreement; however, the resident group shall have a reasonable time beyond the date of execution of the purchase and sale agreement, if necessary, to obtain financing for the purchase, lease, or transfer.

(g) A manufactured housing community owner may, as shall be appropriate under the circumstances, record in the registry of deeds of the county in which the park is located an affidavit in which the park owner certifies that:

(1) The manufactured housing community owner has complied with the requirements of this section (including a copy of the notice sent to the residents of the community); or

(2) The sale or transfer of the park is exempted from this section pursuant to 25 Del. C. §7001D.

(h) Any party acquiring an interest in a manufactured housing community, and any and all title insurance companies and attorneys preparing, furnishing, or examining any evidence of title, shall have the absolute right to rely on the truth and accuracy of all statements appearing in such affidavit, and shall be under no obligation to inquire further as to any matter or fact relating to the park owner's compliance with the provisions of this section.

- (i) A manufactured housing community owner who sells, leases, or transfers a community and fails to comply with the terms of this section shall be liable to the residents as a group in the amount of \$50,000 or 20% of the gross sales price by the manufactured housing community owner from the sale, whichever is greater. In addition, the residents shall have the right to seek equitable relief, including declaratory relief, injunctive relief, and the appointment of a receiver, if a manufactured housing community owner is preparing to or does sell, lease, or transfer a manufactured housing community without complying with this section, but compliance with subsection (h) of this section shall preclude any order that requires the buyer to re-convey the community after the sale, lease, or transfer has occurred. In any action under this subsection the court shall award reasonable attorney's fees to the residents if they prevail.
- (j) The parties may by written agreement extend or decrease the time periods set forth in this section.
- (k) Chapter 71 of Title 25 of the Delaware Code shall not apply to purchases of manufactured housing communities pursuant to this section."

Section 3. Amend Title 25, Delaware Code by adding a new §7001D to read as follows:

"§7001D. Exceptions to notice.

Notwithstanding any provision to the contrary, the owner of a manufactured housing community shall not be required to give notice to the residents if:

- (a) The community is being sold at a foreclosure sale.
- (b) The sale, lease, or transfer is to a family member of the owner or to a trust, the beneficiaries of which are family members of the owner.
- (c) The sale, lease, or transfer is by a partnership to one or more of its partners.
- (d) The conveyance of an interest in the community is incidental to the financing of such community.
- (e) The sale, lease, or transfer is between joint residents or residents in common.
- (f) The sale is pursuant to eminent domain."

Section 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

SYNOPSIS

This Bill includes legislative findings regarding manufactured housing community closures. It also provides notice requirements prior to sale of such communities, and a right of first refusal provision for the communities.

Author: Senator Bunting