



SPONSOR: Rep. Q. Johnson
Rep. B. Short; Sen. Simpson

HOUSE OF REPRESENTATIVES
145th GENERAL ASSEMBLY

HOUSE BILL NO. 280

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE

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

- 1 Section 1. Amend § 5113, Title 25 of the Delaware Code by inserting a new subsection (d) to read as follows:
- 2 “(d) This subsection does not apply to a five-day notice delivered to a tenant pursuant to § 5502(a) of this Code or
- 3 to a seven-day notice delivered to a tenant pursuant to § 5513(a)(1) of this Code.”

SYNOPSIS

This bill clarifies the ambiguities in the landlord tenant code relating to the “five day notice” that a landlord may send to a tenant in writing when the tenant has not paid rent by the due date and the “seven day notice” that a landlord may send to a tenant when the landlord believes the tenant has breached any rule or covenant which is material to the rental agreement. If a tenant does not pay rent within five days of receipt of a “five day notice,” a landlord may terminate the lease and may commence an action in the Justice of the Peace Court for summary possession. Similarly, if a tenant does not remedy the violation within seven days of receipt of a “seven day notice,” the landlord may terminate the lease and commence an action in the Justice of the Peace Court for summary possession.

Specifically, this bill clarifies that neither the five-day notice nor the seven-day notice are “summons” and, accordingly, that such documents are not subject to formal service of process requirements. When a landlord actually commences a legal action pursuant to the Landlord-Tenant Code, the landlord is still obligated to comply with all applicable service of process requirements. As long as the five-day and seven-day notices are delivered to tenants “in writing” (even if, for example, the notice is delivered in one envelope addressed to all tenants on the lease), the landlord has complied with the landlord-tenant code’s notice requirement.