SPONSOR: Rep. Kowalko & Sen. Bunting
Reps. Briggs King, Gilligan, J. Johnson, Schwartzkopf;
Sen. Ennis

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE BILL NO. 167

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MANUFACTURED HOME COMMUNITIES AND THE DELAWARE MANUFACTURED HOME RELOCATION TRUST FUND.

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

Section 1. Amend Section 7012(f)(2), Title 25 of the Delaware Code by deleting the following sentence: "The board of directors may place a lien against the property of any person who is required to pay the assessment to the Trust Fund, but fails to do so."

Section 2. Amend Section 7012(f), Title 25 of the Delaware Code by adding the following new subsection: "(5);

a. If within thirty (30) days of the quarterly due date a landlord fails to remit to the Trust Fund both its portion and the tenant's portion of the assessment, the board of directors of the Authority may, but shall not be required to, notify the landlord in writing, demanding payment and stating that, unless the required payment is made within seven (7) days from the date of mailing, legal action may be initiated in a Court of competent jurisdiction to collect any assessment, interest, at the rate of 1% per month until paid in full, or other sums due and owing. Any written notice must comply with Section 7024 of this Chapter. If the Authority is awarded a judgment in its favor, the Authority may request and the Court shall award reasonable attorney's fees, costs, and expenses. Failure by the Authority to provide such notice described herein shall not be prejudicial to the Authority's right to pursue such cause of action.

b. A landlord may assert as an affirmative defense to legal action initiated pursuant to subsection (a) above that a tenant has failed to pay its portion of the assessment; there shall be a rebuttable presumption that the tenant has paid its required assessment amount, in full.".

SYNOPSIS

This Act clarifies the right of the Relocation Trust Authority to recover, following proper notice, delinquent assessments, interest, court costs, and reasonable attorney's fees and expenses related to enforcement of payment by a landlord of required assessments.

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