# TITLE 25 DELAWARE CODE

## CHAPTER 70

**[Effective December 10, 2019]**

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# Part VI
# Manufactured Home Communities
## Chapter 70
## Manufactured Homes and Manufactured Home Communities [Effective Dec. 10, 2019]
## Subchapter I
## Purpose, Definitions, Enforceability [Effective Dec. 10, 2019]

### § 7001 Purposes and policies; enforceability [Effective Dec. 10, 2019].

(a) Subchapters I through V of this chapter must be liberally construed and applied to promote the following underlying purposes and policies:

(1) To clarify and establish the law governing the rental of lots for manufactured homes as well as the rights and obligations of manufactured home community owners (landlords), manufactured homeowners (tenants), and residents of manufactured home communities.

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

(b) Subchapters I through V of this chapter apply to all rental agreements for manufactured home lots and regulates and determines the legal rights, remedies, and obligations of all parties to a rental agreement, wherever executed, for a lot for a manufactured home in a manufactured home community within this State. A provision of a rental agreement which conflicts with a provision of subchapters I through V of this chapter and is not expressly authorized herein is unenforceable. The unenforceability of a provision does not affect the enforceability of other provisions of a rental agreement which can be given effect without the unenforceable provision.

(25 Del. C. 1953, § 7001; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 74 Del. Laws, c. 35, § 2; 82 Del. Laws, c. 38, § 2.)

### § 7001A The Delaware Manufactured Housing Alternative Dispute Resolution Act [Repealed].

(75 Del. Laws, c. 382, § 1; 70 Del. Laws, c. 186, § 1; repealed by 80 Del. Laws, c. 53 § 1, eff. June 26, 2015.)

### § 7002 Jurisdiction [Effective Dec. 10, 2019].

(a) Any person, whether or not a citizen or resident of this State, who owns, holds an 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 or proceeding for the enforcement of an obligation or right arising under subchapters I through V of this chapter.

(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 a provision in subchapters I through V of this chapter governing the relationship between a manufactured homeowner (tenant) and a manufactured home community owner (landlord), the Residential Landlord-Tenant Code, under Part III of this title, governs the relationship. The Residential Landlord-Tenant Code also governs the rental of manufactured homes. In the event of conflict between the provisions of subchapters I through V of this chapter and the Residential Landlord-Tenant Code, subchapters I through V of this chapter govern issues pertaining to the rental of lots in manufactured home communities.

(25 Del. C. 1953, § 7002; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 64 Del. Laws, c. 95, § 1; 65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 74 Del. Laws, c. 35, § 2; 82 Del. Laws, c. 38, § 4.)

### § 7003 Definitions [Effective Dec. 10, 2019].

Unless otherwise expressly stated, if a word or term is not defined under this section, it has its ordinarily accepted meaning or means what the context implies. For purposes of this chapter:

(1) "Agreement" means a written rental agreement.

(2) "Authority" means the Delaware Manufactured Home Relocation Authority.

(3) "Common area" means shared land or facilities within a manufactured home community over which the landlord retains control.

(4) "Community owner" or "landlord" means the owner of 2 or more manufactured home lots offered for rent. It includes a lessor, sublessor, park owner, or receiver of 2 or more manufactured home lots offered for rent, as well as any person, other than a lender not in possession, who directly or indirectly receives rents for 2 or more manufactured home lots offered for rent and who has no obligation to deliver such rents to another person.

(5) "Guest" or "visitor" means a person who is not a tenant or resident of a manufactured home community and who is on the premises of the manufactured home community with the express or implied permission of a tenant or resident of the community.

(6) [Repealed.]

(7) "Holdover" means a tenant who retains possession of a rented lot in a manufactured home community after the termination, nonrenewal, or expiration of a rental agreement governing the rented lot.

(8) "Homeowner" or "tenant" means an owner of a manufactured home who has a tenancy of a lot in a manufactured home community; a lessee.

(9) "Landlord" or "community owner" means the owner of 2 or more manufactured home lots offered for rent. It includes a lessor, sublessor, park owner, or receiver of 2 or more manufactured home lots offered for rent, as well as any person, other than a lender not in possession, who directly or indirectly receives rents for 2 or more manufactured home lots offered for rent and who has no obligation to deliver such rents to another person.

(10) "Lease" or "rental agreement" means a written contract between a landlord and a tenant establishing the terms and conditions whereby a manufactured home is placed upon or is allowed to remain upon a rented or leased lot in a manufactured home community.

(11) "Manufactured home" means a factory-built, single-family dwelling:

a. Transportable in 1 or more sections, which is either 8 body feet or more in width and 40 body feet or more in length, or, when erected on site, has more than 400 square feet in living area; and

b. With or without a permanent foundation and designed to be used as a year-round dwelling when connected to the required utilities; and

c. If manufactured since June 15, 1976, built in accordance with manufactured home construction requirements promulgated by the federal Department of Housing and Urban Development (HUD) or by other applicable codes. "Manufactured home" is synonymous with "mobile home", "trailer", and similar terms used elsewhere in this title.

(12) "Manufactured home community" means a parcel of land where 2 or more lots are rented or offered for rent for the placement of manufactured homes. Manufactured home community is synonymous with "mobile home park", "trailer park", and "trailer court".

(13) "Notice" means a written announcement, warning or other communication delivered to or served upon a person, as designated in statute.

(14) "Premises" means the rented lots in a manufactured home community, the structures upon them, and the facilities and appurtenances thereon, as well as the grounds, common areas, and facilities held out for the use of the tenants and residents generally or whose use is contracted for between landlord and tenant.

(15) "Quiet enjoyment" includes the peaceful possession of the premises in a manufactured home community without unwarranted disturbance.

(16) "Recreational vehicle" means a travel trailer, camping trailer, park trailer, camper, camper motor home or similar accommodation which is primarily designed as temporary living quarters for recreational camping or for seasonal or travel use and which either has its own motor power or is mounted on or drawn by another vehicle.

(17) "Related party'' means any of a person's parents, spouse, children, and siblings of the whole and half-blood.

(18) "Rent" means money paid by a tenant to a landlord for the possession, use and enjoyment of a rented lot and other parts of the premises in a manufactured home community pursuant to a rental agreement. For purposes of summary possession, rent includes late fees for rent, other fees and charges, including utility charges, and the tenant's share of the Delaware Manufactured Home Relocation Trust Fund assessment.

(19) "Rental agreement" or "lease" means a written contract between a landlord and a tenant establishing the terms and conditions whereby a manufactured home is placed upon or is allowed to remain upon a rented or leased lot in a manufactured home community.

(20) "Resident" means a person who resides in a manufactured home located in a manufactured home community. A resident may or may not be a tenant.

(21) "Seasonal property" means a parcel of land operated as a vacation resort on which 2 or more lots are rented or offered for rent for the placement of manufactured homes or other dwellings used less than 8 months of the year. A seasonal property is characterized by a lack of availability of year-round utilities and by the fact that its tenants have primary residences elsewhere.

(22) "Standing water" means motionless water, not flowing in a stream, tide, or current, that has not dissipated within 48 hours after cessation of precipitation.

(23) "Tenant" or "homeowner" means an owner of a manufactured home who has a tenancy of a lot in a manufactured home community; a lessee.

(24) "Tree" for the purpose of this chapter means a woody, perennial plant at least 25 feet in height or with a main stem a minimum of 6 inches in diameter.

(25) "Trust Fund" means the Delaware Manufactured Home Relocation Trust Fund.

(26) "Utility charge" means a charge by a landlord or others to a tenant for a service, such as water, sewer, electricity, fuel, propane, cable television, or trash.

(27) "Utility service" means a service provided by a landlord or others to a tenant for a service, such as water, sewer, electricity, fuel, propane, cable television, or trash.

(25 Del. C. 1953, § 7003; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 74 Del. Laws, c. 35, § 2; 74 Del. Laws, c. 147, § 1; 77 Del. Laws, c. 258, § 1; 82 Del. Laws, c. 38, § 5.)

## § 7004 Exemptions [Effective Dec. 10, 2019].

(a) The rental of ground upon which a recreational vehicle is placed, including any facilities or utilities thereon, is exempt from the requirements of subchapters I through V of this chapter and nothing in subchapters I through V of this chapter may be construed as determining, regulating, or governing the legal rights of parties to any lease or rental agreement for the ground on which a recreational vehicle is situated.

(b) The rental of ground within the category of seasonal property is exempt from the requirements of subchapters I through V of this chapter and nothing in subchapters I through V of this chapter may be construed as determining, regulating, or governing the legal rights of parties to any lease or rental agreement for the rental of ground within the category of seasonal property.

(25 Del. C. 1953, § 7005; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 74 Del. Laws, c. 35, § 2; 74 Del. Laws, c. 147, § 2; 82 Del. Laws, c. 38, § 6.)

## § 7005 Enforcement [Effective Dec. 10, 2019].

(a) It is the duty and obligation of the Consumer Protection Unit, or its successor, of the Department of Justice to enforce the provisions of subchapters I through V of this chapter. A violation of any provision of subchapters I through V of this chapter by a landlord is within the scope of enforcement duties and powers of the Consumer Protection Unit, or its successor, of the Department of Justice.

(b) Whenever the Consumer Protection Unit, or its successor, of the Department of Justice has reasonable cause to believe that any landlord is engaged in a pattern or practice of violating or failing to comply with the terms of any provision of a rental agreement covered by this chapter, the Attorney General may commence a civil action in any court of competent jurisdiction and seek such relief as the Department of Justice deems necessary to enforce and to ensure the compliance with the terms of such agreement.

(65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 69 Del. Laws, c. 291, §§ 98(b), (c); 74 Del. Laws, c. 35, § 2; 75 Del. Laws, c. 382, § 6; 82 Del. Laws, c. 38, § 7.)

# Subchapter II

# Landlord-Tenant Relationship [Effective Dec. 10, 2019]

### I General Provisions [Effective Dec. 10, 2019]

## § 7006 Requisites for rental of a manufactured home lot [Effective Dec. 10, 2019].

A landlord shall not rent a lot in a manufactured home community without first delivering to the prospective tenant a copy of the proposed rental agreement, a copy of the rules, standards, and fee schedule of the manufactured home community, a copy of this chapter, and a summary of this chapter written by the Department of Justice and made available to all landlords prior to January 1, 2012, all of which shall be delivered to the prospective tenant at the time the prospective tenant obtains from the landlord an application for tenancy in the community. The prospective tenant shall acknowledge such delivery by signing a receipt.

(74 Del. Laws, c. 35, § 2; 78 Del. Laws, c. 20, § 1; 79 Del. Laws, c. 412, § 1; 82 Del. Laws, c. 38, § 9.)

## § 7007 Manufactured home standards [Effective Dec. 10, 2019].

(a) Standards for manufactured homes of new tenants. — (1) A landlord shall adopt reasonable written standards regarding the size, age, quality, appearance, construction, materials, and safety features for a manufactured home entering the landlord's manufactured home community.

(2) A landlord may refuse to allow the placement of a manufactured home on a lot in the manufactured home community if the manufactured home does not comply with the reasonable written standards adopted under paragraph (a)(1) of this section.

(b) Standards for manufactured homes not for sale. — A tenant who is residing in a manufactured home community at the time a standard is promulgated must bring the tenant's own manufactured home into compliance with the standard within 9 years of the promulgation of the standard or be subject to a summary possession proceeding under Chapter 57 of this title. However, if a change in a manufactured home is necessary to protect life or for other safety reason, the landlord may require that the change be made in less than 9 years. Once work begins on the manufactured home, the necessary change must be completed within a reasonable time.

(c) Standards for manufactured homes for resale or transfer of title and retention in the manufactured home community. — (1) A landlord shall adopt reasonable written standards regarding the resale or transfer of title of a manufactured home intended for retention in the landlord's manufactured home community. The standards must relate only to appearance, maintenance, safety, and compliance with state and local housing, building, or health codes, and the 1976 HUD Code. A landlord may not issue standards in which the age of a manufactured home is the exclusive or dominant criterion prohibiting the home from being sold and retained in the community after the sale is consummated.

(2) If a manufactured home does not meet a landlord's written standards for resale or transfer of title and retention in the manufactured home community, a tenant may attempt to bring the home into compliance with the standards. The landlord shall, within 10 days of a written request from the tenant, reevaluate the home in a reasonable and fair manner.

(d) A standard promulgated under subsections (a), (b), or (c) of this section may not be arbitrarily or capriciously enforced. A landlord may choose not to enforce a standard based upon the documented special needs or hardship of a tenant without waiving the right to the later enforcement of the standard as to that tenant or any other tenant.

(e) A landlord may at any time establish or amend a standard promulgated under subsections (a), (b), or (c) of this section, but an established or amended standard promulgated under subsections (b) or (c) of this section is not effective until the date specified in the established or amended standard or 60 days after the landlord delivers to the tenant written notice of the established or amended standard, whichever is later.

(1) Within 10 days of the landlord's notice of the established or amended standard, a committee, not to exceed 5 members, may be chosen by any method agreed to by the tenants of the manufactured home community.

(2) The committee shall meet with the landlord at a mutually convenient time and place to discuss the established or amended standard.

(3) At the meeting, the landlord shall disclose and explain all material factors and present any supporting documentation for the established or amended standard.

(74 Del. Laws, c. 35, § 2; 82 Del. Laws, c. 38, § 10.)

## § 7008 Provisions of a rental agreement [Effective Dec. 10, 2019].

(a) All new and renewing rental agreements, including those rental agreements whose original term has expired, for a lot in a manufactured home community must all of the following:

(1) The specific identification and location of the rented lot within the manufactured home community.

(2) The total amount of annual rent for the lot.

(3) The term of the rental agreement.

(4) The terms for payment of rent.

a. Rent shall be in monthly increments, unless the parties agree otherwise under paragraph (a)(4)c. of this section.

b. Rental payments shall be paid by the tenant to the community owner or landlord in equal dollar amounts, or as close thereto as possible, and shall be extended equally, pro rata on a monthly basis, over a calendar year.

c. Any provision in a rental agreement or otherwise which requires rental payments or rental increases to be paid in one lump sum shall be null and void. However, a tenant may request and the community owner or landlord may agree thereto, that rental payment be made in a 1-time lump sum payment by the tenant.

d. The provisions of this section shall be prospective in nature.

e. The monthly rental amount, as aggregated, must not exceed the annual rental amount and such monthly rental amount shall be determined by dividing the total annual into 12 equal payments, to be made on a monthly rental schedule.

f. The amount of rent due each month and the date the monthly rent payment is due.

(5) The amount of any late-payment fee for rent and the conditions under which the fee may be imposed.

(6) A listing of each other fee or charge in a manner that identifies the service to be provided for the fee or charge in accordance with the provisions under § 7020 of this title.

(7) The name and address of the landlord or the person authorized to receive notices and accept service on the landlord’s behalf.

(8) The name and location of the federally insured financial institution where the landlord’s security-deposits account is located.

(9) A services rider which contains a description of each utility, facility, and service provided by the landlord and available to the tenant. The services rider must clearly indicate the financial responsibility of the tenant and the landlord for installation and maintenance of each service, and the related fees or charges for each service.

(10) A rental agreement summary that must contain all of the following:

a. A brief description of the manufactured home.

b. The rented lot.

c. The amount of the annual rent and monthly rental payment.

d. The duration of the rental agreement.

e. The landlord’s mailing address.

f. The name, address, and phone number of the property manager.

g. The tenant’s mailing address.

h. Fees.

i. The amount of the security deposit.

j. [Repealed.]

k. The amount of rent charged for the lot for the 3 most recent past years. If the amounts are unknown after a diligent search or if the lot was not rented, a statement to that effect must be included. The rent history provided pursuant to this paragraph may not be used as a predictor of future rent increases, nor may it be used against the community owner or landlord in any way.

(11) The grounds for termination, as described in subchapters I through V of this chapter.

(12) A specific reference to this subchapter as the law governing the relationship between the landlord and the tenant regarding the lot rental.

(13) Provisions requiring the landlord to do all of the following:

a. Maintain and regrade the lot area where necessary and in good faith, as permitted by law, to prevent the accumulation of standing water thereon and to prevent the detrimental effects of moving water if such efforts do not cause the creation of any new accumulations of standing water or detrimental effects of moving water on another lot area. Areas defined by local, state, or federal regulations as wetlands, flood plains, tidal areas, water recharge areas, or recorded drainage systems are exempt from this paragraph.

b. Maintain the manufactured home community in such a manner as will protect the health and safety of residents, visitors, and guests.

c. Identify each lot area in the community in such a way that each tenant can readily identify that tenant’s own area of responsibility.

d. Maintain the community, including common areas and rental lots not under rent, keeping it free of species of weeds or plant growth which are noxious or detrimental to the health of the residents.

e. Make a good faith effort to exterminate insects, rodents, vermin, or other pests which are dangerous to the health of the residents when an infestation exists in the common areas of the community.

f. Maintain all water, electrical, plumbing, gas, sewer, septic, and other utilities and services provided by the landlord in good working order, repairing these utilities and services within the earlier of 48 hours after written notification of a utility or service problem, or as soon thereafter as is practicable if a repair within 48 hours is not practicable.

g. When applicable, specify whether septic systems are to be maintained by the landlord or by the tenant.

h. Respect the privacy of residents and agree not to enter into, under, or on the manufactured home without the permission of the tenant or an adult resident unless emergency circumstances exist and entry is required to prevent injury to person or damage to property. However, the landlord may, with 72 hours' notice, inspect any utility connections owned by the landlord or for which the landlord is responsible.

i. Maintain all roads within the community in good condition.

j. Comply with all federal, state, and local building codes.

k. Allow the tenant freedom of choice in the purchase of goods and services other than utilities and related services subject to the limitations in paragraph (b)(13) of this section.

l. Maintain, care for, and remove, if necessary, trees on any lot, including common areas, if the tree is at least 25 feet in height or has a main stem or trunk larger than 6 inches in diameter. Such maintenance, care, and removal means those steps required to maintain a live and healthy tree condition per standard horticultural practices in accordance with the standards as set forth by the American Association of Nurserymen.

1. Nothing contained in paragraph (a)(13) of this section requires the landlord to remove leaves, needles, pine cones, sap, pods, seed containers, or any such material normally produced by the tree as part of its life cycle.

2. The landlord must respect the privacy of the tenant and not enter the rented lot to maintain, care for, or remove trees without the permission of the tenant or an adult resident unless emergency circumstances exist and entry is required to prevent injury to person or damage to property.

(14) Provisions requiring the tenant to do all of the following:

a. Keep the exterior of the manufactured home and the rented lot in a clean and sanitary condition.

b. Refrain from storing outside on the lot occupied by the tenant's manufactured home building materials, furniture, or similar items usually not stored outside a home by a property owner in a residential area.

c. Dispose of all rubbish, garbage, and other waste materials in a clean and sanitary manner.

d. Abide by all reasonable written rules concerning use, occupation, and maintenance of the premises, under § 7018 of this title.

e. Abide by all reasonable written manufactured home standards under § 7007 of this title.

(b) A rental agreement for a lot in a manufactured home community may not contain any of the following:

(1) A provision whereby the tenant authorizes a person to confess judgment on a claim arising out of the rental agreement.

(2) A provision whereby the tenant agrees to waive or to forego any right or remedy provided by law.

(3) A provision whereby the tenant waives the right to a jury trial.

(4) A provision which permits the landlord to take possession of the rented lot or the tenant's personal property without the benefit of formal legal process.

(5) A provision which permits the landlord to collect a fee for late payment of rent without allowing the tenant to remit the monthly rent in full a minimum of 5 days beyond the date the rent is due.

(6) A provision which permits the landlord to impose for late payment of rent, based on a monthly payment, a fee in excess of the greater of $25 or 5% of the monthly rental payment specified in the rental agreement.

(7) A provision which permits the landlord to charge an amount in excess of 1 month's rent for a security deposit, unless mutually agreed to, or to retain the security deposit upon termination of the rental agreement when the tenant has paid the rent and any fees or charges in full as of the date of termination and has caused no damage to the landlord's property.

(8) A provision which permits the landlord to collect a deposit in excess of 1 normal billing period for any governmental mandated charge which is the responsibility of the tenant and would ultimately become the responsibility of the landlord if not paid by the tenant, or to retain the deposit upon termination of the lease if the tenant has paid the mandated charge.

(9) A provision which prohibits the tenant from terminating the rental agreement upon a minimum of 30 days notice when a change in the location of the tenant's current employment causes the tenant to commute 30 miles farther from the manufactured home community than the tenant's current commuting distance from the community, or a provision which prohibits a tenant who is a member of the armed forces of the United States from terminating a rental agreement with less than 30 days notice to the landlord if the tenant receives reassignment orders which do not allow at least 30 days notice.

(10) A provision for a waiver of any cause of action against, or indemnification for the benefit of, the landlord by the tenant for any injury or harm caused to the tenant or to residents, guests, or visitors or to the property of the tenant, residents, guests, or visitors resulting from any negligence of the landlord or of a person acting for the landlord in the performance of the landlord's obligations under the rental agreement.

(11) A provision which denies to the tenant the right to treat a continuing, substantial violation by the landlord of any agreement or duty protecting the health, welfare, or safety of the tenant or residents as a constructive or actual eviction which would otherwise

permit the tenant to terminate the rental agreement and to immediately cease payments thereunder; provided, that the landlord 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 to the landlord by the tenant.

(12) A provision which prohibits displaying a for-sale sign that advertises the sale of a manufactured home in a manufactured home community; however, the landlord may establish reasonable limitations as to the number of signs and the size and placement of signs.

(13) A provision which unreasonably limits freedom of choice in the tenant's purchase of goods and services, however, a landlord may do any of the following:

a. Prohibit service vehicles to have access to the manufactured home community in such numbers or with such frequency that a danger is created or that damage beyond ordinary wear and tear is likely to occur to the infrastructure of the community.

b. Restrict trash collection to a single provider.

c. Select shared utilities.

(14) A provision which permits the recovery of attorneys' fees by either party in a suit, action, or proceeding arising from the tenancy.

(15) A provision which violates any federal, state, or local law.

(16) A provision which requires the tenant do any of the following:

a. Sell or transfer a manufactured home to the landlord.

b. Buy a manufactured home from the landlord.

c. Sell a manufactured home through the services of the landlord.

(17) A provision which requires the tenant to provide the landlord with a key to the tenant's manufactured home or any appurtenances thereto.

(18) A provision which regulates the use of satellite dishes or television antennas that conflicts with federal law or FCC regulations.

(19) A provision which requires the tenant to accept automatic deduction of rent payments from the tenant's checking or other account.

(20) A provision which grants the landlord an option or right of first refusal to purchase the tenant's manufactured home.

(21) A provision which limits to a liquidated sum the recovery to which the tenant otherwise would be entitled in an action to recover damages for a breach by the landlord in the performance of the landlord's obligations under the rental agreement.

(c) If a court finds that a tenant's rental agreement contains a provision in violation of subsection (b) of this section, all of the following apply:

(1) The landlord shall remove the provision and provide all affected tenants by regular first-class mail with proof of mailing or by certified mail, return receipt requested, at the address of the tenants' rented lots, with either an amended rental agreement or corrective addendum to the rental agreement within 30 days of the exhaustion of all appeals, if any are taken.

(2) The landlord is liable to the tenant for actual damages suffered by the tenant as a result of the violation, plus court costs, if any.

(d) If a court finds that a landlord has wilfully included in the rental agreement a provision in violation of subsection (b) of this section, the tenant is entitled to recover 3 months' rent in addition to an award under subsection (c) of this section.

(e) A rental agreement must be executed before a tenant occupies a lot.

(f) A landlord may not offer a lot for rent in a manufactured home community unless the lot conforms to the applicable state, county, or municipal statutes, ordinance, or regulations under which the manufactured home community was created, or under which the manufactured home community currently and lawfully exists.

(g) A violation of subsection (f) of this section is punishable by a fine of not more than $1,000.

(h) If a court of competent jurisdiction finds that a tenant's rental agreement fails to contain a provision required by subsection (a) of this section, all of the following apply:

(1) The landlord shall include the provision and provide all affected tenants by regular first-class mail with proof of mailing or by certified mail, return receipt requested, at the address of the tenants' rented lots, with either an amended rental agreement or corrective addendum to the rental agreement within 30 days of the exhaustion of all appeals, if any are taken.

(2) The landlord is liable to the tenant for actual damages suffered by the tenant as a result of the violation, plus court costs, if any.

(i) If a court finds that a landlord has wilfully failed to include in the rental agreement a provision required by subsection (a) of this section, the tenant is entitled to recover 3 months' rent in addition to an award under subsection (h) of this section.

(j) Both the landlord and tenant shall comply with the provisions of the rental agreement. The remedies available to a landlord or a tenant set forth in this chapter are in addition to those remedies available to a landlord or a tenant in a court of competent jurisdiction for the failure by the landlord or the tenant to comply with any provision of a rental agreement.

(25 Del. C. 1953, §§ 7004, 7006; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 35, § 2; 75 Del. Laws, c. 375, § 1; 75 Del. Laws, c. 382, §§ 3-5; 77 Del. Laws, c. 53, § 1; 77 Del. Laws, c. 258, §§ 2, 3; 77 Del. Laws, c. 259, § 1; 82 Del. Laws, c. 38, § 11.)

## § 7009 Term of rental agreement; renewal of rental agreement [For application of this section, see 79 Del. Laws, c. 304, § 7] [Effective Dec. 10, 2019].

(a) The duration of a rental agreement for a lot in a manufactured home community is 1 year unless a shorter or longer duration is mutually agreed upon by the parties and is designated in writing within the rental agreement.

(b) The rental agreement automatically renews unless either of the following occur:

(1) The tenant notifies the landlord in writing, a minimum of 60 days prior to the expiration of the rental agreement, that the tenant does not intend to renew it, or a shorter or longer period of time as is mutually agreed upon by the parties.

(2) The landlord notifies the tenant in writing, a minimum of 90 days prior to the expiration of the rental agreement, that the agreement will not be renewed for due cause under § 7016 or § 7024 of this title.

(c) If the rental agreement is not terminated under subsection (b) of this section, the rental agreement renews for the same duration and with the same terms, conditions, and provisions as the original agreement, with the following exceptions:

(1) All parties mutually agree, in writing, to permitted modifications.

(2) Rent modified under subchapter VI of this title.

(25 Del. C. 1953, § 7009; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 74 Del. Laws, c. 35, § 2; 79 Del. Laws, c. 63, § 4; 82 Del. Laws, c. 38, § 12.)

## § 7010 Rent — Prohibited lump sum payments: acceptance of rent [Effective Dec. 10, 2019].

(a) Rental payments must be paid by the tenant to the community owner or landlord in equal dollar amounts, or as close thereto as possible, and must be extended equally, pro rata, over a calendar year. Any provision in a rental agreement, or otherwise, that requires rental payments or rental increases to be paid in 1 lump sum is void. However, a tenant may request and the community owner or landlord may agree that rental payment be made in a 1-time lump sum, semi-annual, or quarterly payment made by the tenant; nor does this subsection prevent a community owner or landlord from offering discounts as incentives to homeowners to pay annually, semi-annually, or quarterly, provided it is made clear that the homeowners are under no obligation to pay in any way except monthly.

(b) If a community owner or landlord accepts a cash payment for rent, the community owner or landlord shall, within 3 days, give the tenant a receipt for that payment. The community owner or landlord must maintain a record of all cash receipts for rent for 3 years.

(77 Del. Laws, c. 53, § 2; 82 Del. Laws, c. 38, § 13.)

## § 7011 Holdover remedies after rental agreement terminates, expires, or is not renewed [Effective Dec. 10, 2019].

When a court finds that a landlord is entitled to possession of a rented lot in a manufactured home community because of a holdover by a tenant, the court may award damages as follows:

(1) If the holdover was in bad faith, a payment of double the periodic rent under the rental agreement. Double-rent is computed and prorated for each day the tenant remained in or remains in possession of the lot after the date on which the rental agreement terminated, expired, or was not renewed.

(2) If a holdover is determined to be in good faith, the landlord is entitled to a payment of the periodic rent under the rental agreement, computed and prorated for each day the tenant remained in or remains in possession of the lot after the date on which the rental agreement terminated, expired, or was not renewed.

(25 Del. C. 1953, § 7012; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 74 Del. Laws, c. 35, § 2; 82 Del. Laws, c. 38, § 14.)

## § 7012 Effect of unsigned rental agreement [Effective Dec. 10, 2019].

(a) If the landlord does not sign a written rental agreement which has been signed and tendered to the landlord by the tenant, acceptance of rent from the tenant without reservation by the landlord gives to the rental agreement the same effect as if it had been signed by the landlord.

(b) If the tenant does not sign a rental agreement which has been signed and tendered to the tenant by the landlord, acceptance of possession of the rented lot and payment of rent without reservation give to the rental agreement the same effect as if it had been signed by the tenant.

(c) Even if a rental agreement which is given effect by the operation of this section provides for a term longer than 1 year, it operates to create only a 1-year term.

(25 Del. C. 1953, § 7008; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 74 Del. Laws, c. 35, § 2; 74 Del. Laws, c. 147, § 10; 82 Del. Laws, c. 38, § 15.)

## § 7013 Manufactured home transfer; rented lot transfer [Effective Dec. 10, 2019].

(a) This section governs the sale, conveyance, or transfer of title of a manufactured home which the buyer or transferee intends to retain in the manufactured home community. This section further extends to the landlord the right to purchase any manufactured home in the community for 1% higher than the contract price at which the tenant has agreed to sell the home to a third party.

(b) (1) A rental agreement for a lot in a manufactured home community is only transferable from an individual tenant, or heir, who owns the manufactured home on the lot under the rental agreement to a transferee to whom the tenant intends to sell or transfer title to the home, if all of the following apply:

a. The home qualifies for retention in the manufactured home community according to written standards promulgated under § 7007 of this title. The community owner may conduct an exterior inspection of the home to determine if it qualifies for retention consistent with the written standards.

b. After a review of the proposed rental agreement transferee's written application, the landlord accepts the proposed rental agreement transferee as a tenant.

(2) Acceptance or rejection of a proposed rental agreement transferee under this subsection must be on the same basis by which the landlord accepts or rejects any prospective tenant.

(3) A landlord must give the rejected proposed rental agreement transferee a written statement that explains the specific eligibility requirement not satisfied and the grounds for the rejection.

(4) Within 15 days of the receipt of a completed application package, including the applicable fee, under subsection (c) of this section, a landlord must provide written notice, to the tenant under the lot rental agreement and the proposed rental agreement transferee, that states whether the proposed rental agreement transferee is accepted or rejected. If the application is rejected, the notice must comply with paragraph (b)(3) of this section.

(c) A tenant who owns a manufactured home in a manufactured home community, and plans to sell, convey, or transfer title to the home to a buyer or transferee who intends to retain the home in the manufactured home community, must notify the landlord in writing 3 weeks prior to the scheduled sale, conveyance, or transfer of title of the manufactured home and the transfer of the lot rental agreement, giving the name and address of the prospective buyer or transferee, along with a written statement or a proposed bill of sale clearly indicating the agreed sale price and terms. Failure on the part of a tenant to so notify the landlord is grounds for termination by the landlord of the tenant and landlord's rental agreement.

(1) The landlord has the right to purchase the home at a price of 1% higher than the contract price and under the same terms at which the tenant has agreed to sell the home to a third party.

(2) If the landlord wishes to purchase the home at 1% higher than the contract price and under the same terms at which the tenant has agreed to sell the home to a third party, the tenant must sell the home to the landlord.

(3) Upon receipt of the name and address of the prospective buyer or transferee and the agreed sale price and terms, the landlord shall notify the tenant in writing within 5 business days that the landlord is exercising the right to purchase the home. If the landlord does not notify the tenant in writing under § 7015 of this title within 5 business days that the landlord is exercising the right to purchase the home, the right of the landlord to purchase the home expires.

(4) The landlord's notice must be sent to the tenant under § 7015 of this title. The notice must clearly state that the price and terms are acceptable, and must set a settlement date within 14 days.

(5) The right of the landlord to purchase a tenant's home does not extend to the following circumstances:

a. A bank, mortgage company, or any other mortgagee has foreclosed on the home.

b. The sale, transfer, or conveyance of the home is to a family member of the homeowner or to a trust, the beneficiaries of which are family members of the homeowner on the modified Table of Consanguinity; or the sale, transfer, or conveyance is to a family member of the homeowner on the modified Table of Consanguinity, under § 7014 of this title, who is included within the line of intestate succession if the homeowner dies intestate.

c. The sale, transfer, or conveyance of the home is between joint tenants or tenants-in-common.

d. The transfer or conveyance is by gift, devise, or operation of law.

(6) A landlord may not engage in any act or activity with the intention of placing undue influence or undue pressure on a tenant to sell the tenant's home to the landlord.

a. A tenant may file an action in a court of competent jurisdiction for actual damages sustained when the tenant reasonably believes that the landlord wilfully has done any of the following:

1. Exerted undue influence or undue pressure on the tenant to sell the tenant's home to the landlord.

2. Exerted undue influence or undue pressure on a former tenant which resulted in the sale of the former tenant's home to the landlord.

3. Did not evaluate the home in a reasonable and fair manner when applying written standards for resale or transfer of the manufactured home in the community under § 7007(c) of this title.

b. It is an affirmative defense to a claim that a landlord engaged in an act or activity with the intention of placing undue influence or undue pressure on a tenant or former tenant by initiating a rent increase, if the landlord provides proof that the increased rent is within the range of market lot rents.

c. If a court finds that a landlord has wilfully engaged in any of the acts enumerated in paragraph (c)(6)a. of this section, the landlord is liable to the tenant or former tenant for 3 times the actual damages sustained as a result of the landlord's acts and reasonable court costs.

d. If a finds that a landlord has wilfully engaged in an act or activity with the intention of placing undue influence or undue pressure on a current or former tenant in order to purchase the current or former tenant's home, the landlord may not exercise that landlord's own right to buy any tenant's home for 365 days. Each offense is subject to a 365-day penalty.

(d) If a landlord accepts a proposed rental agreement transferee, the transfer of an existing rental agreement must be completed using 1 of the following 2 methods at the exclusive discretion of the individual tenant, or heir, under the lot rental agreement for the manufactured home, and the proposed rental agreement transferee and landlord are bound by that selection:

(1) The tenant proposing to transfer the existing lot rental agreement agrees to an assignment of the lot rental agreement to an approved rental agreement transferee, with all of the existing obligations and benefits, including the rental amount under the existing rental agreement, for the remaining term of the agreement.

a. If the method under paragraph (d)(1) of this section is selected, the existing rental agreement between the existing tenant and the landlord is simultaneously assigned by the existing tenant and assumed by the approved rental agreement transferee and the approved rental agreement transferee becomes the new tenant.

b. Upon the sale, assignment, and assumption, the landlord must amend the existing lot rental agreement and list the approved rental agreement transferee as the new tenant.

(2) The tenant who is selling the manufactured home chooses to terminate the existing lot rental agreement. The buyer must then negotiate the terms of and enter into a new rental agreement for a full term at a rental amount set by the landlord. If this method is selected, the existing rental agreement is terminated upon the execution of the new rental agreement.

(e) Notwithstanding the provisions of this section and § 7007 of this title, written standards which were in effect on January 1, 2003, relating to the sale or transfer of title of a manufactured home for retention in a manufactured home community will apply for a sale or transfer of title during 2003. For a sale or transfer on January 1, 2004, and thereafter, standards promulgated under § 7007 of this title apply. In addition, a buyer or transferee who becomes a tenant in a manufactured home community has 3 years from the date of the resale or transfer to complete changes to the buyer or transferee's manufactured home required under the written standards of the manufactured home community. However, if the changes are necessary to protect life or for other safety reasons, the landlord may require that changes be made in less than 3 years. Further, if a seller-tenant does not make necessary changes to meet the standards prior to sale, the buyer or transferee shall deposit 120% of the estimated cost of the changes necessary to meet the standards into an account jointly controlled by the landlord and the buyer or transferee. Once work begins on the manufactured home, the necessary changes must be completed within a reasonable time.

(f) A buyer or transferee who does not complete required changes under subsection (e) of this section is subject to a summary possession proceeding pursuant to Chapter 57 of this title.

(25 Del. C. 1953, § 7009; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 35, § 2; 76 Del. Laws, c. 336, §§ 3, 4; 81 Del. Laws, c. 422, § 1; 82 Del. Laws, c. 38, § 16.)

## § 7014 Modified Table of Consanguinity [Effective Dec. 10, 2019].

Degrees of relationship of family members designated by the number in the box with the relationship in the following table:

Table of Consanguinity

| | | | | Great-Great Grand Parents 4 |
|---|---|---|---|---|
| | | | Great Grand Parents 3 | Great-Grand Uncles/Aunts 5 |
| | | Grand Parents 2 | Great Uncles/Aunts 4 | First Cousins Twice Removed 6 |
| | Parents 1 | Uncles/Aunts 3 | First Cousins Once Removed 5 | |
| Home Owner & Spouse Or Community Owner & Spouse | Brothers Sisters 2 | First Cousins 4 | Second Cousins 6 | |
| Children 1 | Nephews Nieces 3 | First Cousins Once Removed 5 | | |
| Grand Children 2 | Grand Nephews/Nieces 4 | First Cousins Twice Removed 6 | | |
| Great-Grand Children 3 | Great-Grand Nephews/Nieces 5 | First Cousins Thrice Removed 7 | | |

(82 Del. Laws, c. 38, § 17.)

## § 7015 Delivery of written notice [Effective Dec. 10, 2019].

(a) Unless otherwise specified, notice required by this chapter may be served personally upon a tenant of a manufactured home community by leaving a copy of the notice at the tenant's dwelling place with an adult person who resides therein. Notice required under subchapters I through V of this chapter may be served personally upon a landlord or upon any other person in the employ of the landlord whose responsibility is to accept such service. If a landlord is a corporation, firm, unincorporated association, or other artificial entity, service of the notice may be made by leaving a copy of the notice at its office or place of business with an agent authorized to accept such notice or authorized by law to receive service of process. Service of notice or process may be obtained through personal service by a special process-server appointed by the court.

(b) In lieu of personal service, notice required under subchapters I through V of this chapter may be sent by regular first class mail with proof of mailing or by certified mail, return receipt requested, to the tenant at the address of the tenant's rented lot, or at an alternative address which the tenant provided in writing to the landlord. Notice required under subchapters I through V of this chapter may be sent by regular first class mail with proof of mailing or by certified mail, return receipt requested, to the landlord at the landlord's last known dwelling place or at the landlord's last known office or place of business. Proof of mailing regular first class mail on U.S. Postal Service Form 3817 or its successor, or a return receipt, signed or unsigned, for certified mail constitutes valid service of any notice required under subchapters I through V of this chapter.

(65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 74 Del. Laws, c. 35, § 2; 82 Del. Laws, c. 38, § 18.)

II Tenant Obligations and Landlord Remedies [Effective Dec. 10, 2019]

## § 7016 Termination or nonrenewal of rental agreement by landlord; due cause: noncompliance [Effective Dec. 10, 2019].

(a) A landlord may terminate a rental agreement with a tenant immediately upon written notice if the tenant does not comply with the terms of the rental agreement or the requirements of this subchapter and the noncompliance is the result of any of the following:

(1) Clear and convincing evidence that conduct of the tenant or of a resident of the tenant's manufactured home caused, is causing, or threatens to cause, immediate and irreparable harm to any person or property in the manufactured home community.

(2) Conviction of a crime or adjudication of delinquency committed by a tenant or by a resident of the tenant's manufactured home, the nature of which at the time of the crime or act of delinquency caused immediate and irreparable harm to any person or property in the manufactured home community.

(3) Clear and convincing evidence of a material misrepresentation on the tenant's application to rent a lot in the manufactured home community which, if the truth were known, would have resulted in the denial of the application.

(4) The failure of the tenant to provide proper notification to the landlord prior to selling or transferring to a buyer or transferee title of a manufactured home which the buyer or transferee intends to retain in the manufactured home community under § 7013(c) of this title.

(5) The failure of a tenant to bring his or her manufactured home into compliance with written standards under § 7007(b) or § 7013(e) of this title.

(b) A landlord may terminate a rental agreement with a tenant by providing prior written notice as follows:

(1) If the tenant's noncompliance with the terms of the rental agreement or the requirements of this subchapter involves conduct of the tenant, of a resident of the tenant's manufactured home, or of a guest or visitor of the tenant or resident which results in the disruption of the rights of others entitled to the quiet enjoyment of the premises, the landlord shall notify the tenant in writing to immediately cause the conduct to cease and not allow its repetition. The notice must specify the conduct which formed the basis for the notice and notify the tenant that if substantially the same conduct recurs within 6 months, whether or not the 6-month period falls within 1 lease period or overlaps 2 lease periods, the landlord may immediately terminate the rental agreement and bring an action for summary possession.

(2) If the noncompliance is based upon a condition on or of the premises of the manufactured home community, the landlord shall notify the tenant in writing, specifying the condition constituting the noncompliance and allowing the tenant 12 days from the date of mailing or personal service to remedy the noncompliance. If the tenant remains in noncompliance at the expiration of the 12-day period, whether or not the 12-day period falls within 1 lease period or overlaps 2 lease periods, the landlord may immediately terminate the rental agreement and bring an action for summary possession.

(3) If rent, which includes late fees for rent, other fees and charges, including utility charges, and the Trust Funds assessment, is not received by the landlord by the 5th day after the due date or during the grace period stated in the rental agreement, whichever is longer, the landlord shall notify the tenant in writing, demanding payment and stating that unless the required payment is made within 7 days from the date of mailing or personal service, the rental agreement will be terminated. If the tenant remains in default after the 7-day period, whether or not the 7-day period falls within 1 lease period or overlaps 2 lease periods, the landlord may terminate the rental agreement and bring an action to recover the rent due and for summary possession.

(c) Whether or not repeated instances of noncompliance fall within 1 lease period or overlap 2 or more lease periods, if there are repeated instances of noncompliance by the tenant with a provision of the rental agreement, with any rule or regulation material to the rental agreement, or with a provision of subchapters I through V of this chapter, even when corrected by the tenant, a landlord may immediately terminate the rental agreement and bring an action for summary possession and any moneys due, or may refuse to renew the agreement under § 7009 of this title. "Repeated instances of noncompliance" include any of the following:

(1) Failure of the tenant on 4 separate occasions within 12 consecutive payment periods, to make a rent payment by the fifth day after the due date or during the grace period stated in the rental agreement, whichever is longer, resulting in notice being sent to the tenant under paragraph (b)(3) of this section.

(2) Failure of the tenant on 2 separate occasions within 12 consecutive payment periods to reimburse a landlord within 7 days of notice from the landlord to the tenant that the landlord paid the tenant's utility charge.

(3) Tender by the tenant on 2 separate occasions within 12 consecutive payment periods of a bank draft or check which is dishonored by a financial institution for any reason, except for a mistake by the financial institution.

(4) Four separate incidents of noncompliance as described in paragraph (b)(1) or (b)(2) of this section within a 12-month period.

(5) Any combination of 4 separate incidents of noncompliance as described in any subdivision of this subsection within a 12-month period.

(d) A landlord may not terminate a rental agreement or refuse to renew a rental agreement under paragraph (c)(1) of this section unless the landlord notifies the tenant after the third separate occasion within 12 consecutive payment periods that a subsequent incident of noncompliance under paragraph (c)(1) of this section may result in either the immediate termination of the rental agreement or the nonrenewal of the rental agreement at its expiration.

(e) In an action for summary possession based on nonpayment of rent, the tenant is entitled to raise by defense or counterclaim any claim against the landlord that is related to the rental of the lot.

(f) A notice sent to a tenant advising the tenant that the rental agreement is terminated or will be terminated or will not be renewed must specify the reasons for such action in sufficient detail so that the dates, places, and circumstances concerning the termination are clear. Mere reference to or recital of the anguage of this section is not sufficient.

(g) A landlord's right to terminate a rental agreement prior to the expiration of the agreement or right to refuse to renew at the expiration of the agreement does not arise until the landlord has complied with the applicable notice provision upon which the landlord is relying for the termination or non-renewal of the agreement.

(74 Del. Laws, c. 35, § 2; 82 Del. Laws, c. 38, § 20.)

## § 7017 Security deposits; pet security deposits [Effective Dec. 10, 2019].

(a) (1) A landlord may require a tenant to pay a security deposit if provided for in the rental agreement.

(2) A landlord may not require a tenant to pay a security deposit in an amount in excess of 1 month's rent unless the tenant agrees to do so and the full amount is specified in the rental agreement.

(b) (1) Every security deposit paid to a landlord must be placed by the landlord in an escrow bank account in a federally-insured financial institution with an office that accepts deposits within the State. The account must be designated as a security-deposits account and may not be used by the landlord for any purposes other than those described under subsection (c) of this section. The landlord shall disclose in the rental agreement the location of the security deposit account. If the landlord changes the location of the security deposit account, the landlord shall notify each tenant of the new location within 30 days of the change. Security deposit principal must be held and administered for the benefit of the tenant, and the tenant's claim to such money has priority over that of any creditor of the landlord, including a trustee in bankruptcy, even if such money is commingled.

(2) A security deposit paid pursuant to a new rental agreement signed on or after August 25, 2003, must be immediately escrowed under paragraph (b)(1) of this section. A security deposit paid as provided for in an existing rental agreement signed prior to August 25, 2003, must be escrowed under paragraph (b)(1) of this section on or before June 30, 2005.

(c) A security deposit may be used for any of the following purposes:

(1) To reimburse a landlord for actual damages which exceed normal wear and tear to the landlord's property and which were caused by the tenant.

(2) To pay a landlord for all rent, rent arrearage, fees, charges, Trust Fund assessments, and other moneys due and owed to the landlord by the tenant.

(3) To reimburse a landlord for all reasonable expenses incurred in renovating and re-renting the landlord's property caused by the premature termination of the rental agreement by the tenant, except for termination under § 7021 of this title.

(d) Within 20 days after the expiration or termination of a rental agreement, the landlord shall provide the tenant with an itemized list of damages, if any, to the landlord's property and the estimated cost of repair for each item. The landlord shall tender payment for the difference between the security deposit and the cost for repair of damage to the landlord's property. Failure to do so constitutes an acknowledgment by the landlord that no payment for repair of damage is due. A tenant's acceptance of a payment submitted with an itemized list of damages constitutes agreement on the damages as specified by the landlord, unless the tenant objects in writing within 10 days of receipt of the landlord's tender of payment to the amount withheld by the landlord.

(e) If a landlord is not entitled to all or any portion of a security deposit, the landlord shall remit to the tenant within 20 days of the expiration or termination of the rental agreement the portion of the security deposit to which the landlord is not entitled.

(f) Penalties. — (1) Failure by a landlord to remit to a tenant the security deposit or the difference between the security deposit and the cost for repair of damage within 20 days from the expiration or termination of the rental agreement entitles the tenant to double the amount wrongfully withheld.

(2) Failure by a landlord to disclose the location of the security deposit account within 20 days of a written request by a tenant or failure by a landlord to deposit a security deposit in a federally-insured financial institution with an office that accepts deposits within the State results in forfeiture of the security deposit by the landlord to the tenant. Failure by a landlord to return the full security deposit to a tenant under this paragraph within 20 days from the effective date of forfeiture entitles the tenant to double the amount of the security deposit.

(g) All communications and notices required under this section must be directed to a landlord at the address specified in the rental agreement and to a tenant at an address specified in the rental agreement or at a forwarding address, if a forwarding address was provided to the landlord in writing by the tenant. Failure by a tenant to provide a forwarding address relieves the landlord of the responsibility to give notice pursuant to this section and removes the landlord's liability for double the amount of the security deposit. However, the landlord continues to be liable to the tenant for any unused portion of the security deposit if, within 1 year from the expiration or termination of the rental agreement, the tenant makes a claim in writing to the landlord.

(h) Pet deposits. — (1) A landlord may require a tenant to pay a pet security deposit for each pet if provided for in the rental agreement. Damage to a landlord's property caused by a tenant's pet must first be deducted from the pet security deposit. If the pet deposit is insufficient, pet damages may be deducted from the tenant's nonpet security deposit.

(2) If a nonpet security deposit is insufficient to cover nonpet damages under subsection (c) of this section, damages may be deducted from the pet security deposit even if such damages were not caused by a pet. A pet security deposit is a type of security deposit and is subject to subsections (b), (d), (e), (f), and (g) of this section.

(3) A landlord may not require a tenant to pay a pet security deposit in an amount in excess of 1 month's rent, unless the tenant agrees to do so and the full amount is specified in the rental agreement.

(4) A landlord may not require a pet security deposit from a tenant if the pet is a certified and trained support animal for a person with a disability who is a resident of a manufactured home on a rented lot.

(5) Notwithstanding legal ownership of a pet, for purposes of this subchapter, a pet that resides in a manufactured home, or on the lot where the home is located in a manufactured home community, is deemed owned and controlled by a tenant who resides in the manufactured home.

(i) If a rental agreement so specifies, a landlord may increase a security deposit commensurate with an increase in rent. If an increase of the security deposit exceeds 10 percent of the monthly rent, the tenant may choose to pay the increase in the security deposit prorated over the term of the rental agreement but not to exceed 12 months, except in the case of a month-to-month tenancy, in which case payment of the increase may not be prorated over a period in excess of 4 months unless mutually agreed to by the landlord and tenant.

(25 Del. C. 1953, § 7013; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 74 Del. Laws, c. 35, § 2; 74 Del. Laws, c. 147, § 11; 82 Del. Laws, c. 38, § 21.)

## § 7018 Rules [Effective Dec. 10, 2019].

(a) A landlord may promulgate reasonable written rules concerning the occupancy and use of the premises and the use of the landlord's property, and concerning the behavior of manufactured home community tenants, residents, guests, and visitors, provided that the rules further any of the following purposes:

(1) Promoting the health, safety, or welfare of tenants, residents, guests, or visitors.

(2) Promoting the residents' quiet enjoyment.

(3) Preserving the property values of tenants or the landlord.

(4) Promoting the orderly and efficient operation of the manufactured home community.

(5) Preserving the tenants' or landlords' property from abuse.

(b) A landlord may not arbitrarily or capriciously enforce a rule. A landlord may choose not to enforce a rule based upon the documented special needs or hardship of a tenant or resident without waiving the right to the later enforcement of the rule as to that tenant or resident or any other tenant or resident.

(c) A landlord may amend an existing rule at any time, but the amended rule is not effective until the date specified in the amended rule or 60 days after the landlord delivers to the tenant written notice of the amended rule, whichever is later.

(1) Within 10 days of the landlord's notice of an amended rule, a committee, not to exceed 5 members, may be chosen by any method agreed to by the tenants of the manufactured home community.

(2) The committee shall meet with the landlord at a mutually convenient time and place to discuss the amended rule.

(3) At the meeting, the landlord shall disclose and explain all material factors and present any supporting documentation for the amended rule.

(65 Del. Laws, c. 446, § 1; 74 Del. Laws, c. 35, § 2; 82 Del. Laws, c. 38, § 22.)

## § 7019 Retaliatory acts prohibited [Effective Dec. 10, 2019].

(a) Retaliatory acts are prohibited.

(b) A retaliatory act is an attempted or completed act on the part of a landlord to pursue an action against a tenant for summary possession, to terminate a tenant's rental agreement, to cause a tenant to move involuntarily from a rented lot in the manufactured home community, or to decrease services to which a tenant is entitled under a rental agreement, after any of the following occur:

(1) The tenant has complained in good faith to either the landlord or to an enforcement authority about a condition affecting the premises of the manufactured home community which constitutes a violation under subchapters I through V of this chapter or a violation of a housing, health, building, sanitation, or other applicable statute or regulation.

(2) An enforcement authority has instituted an enforcement action based on a complaint by the tenant for a violation under subchapters I through V of this chapter or a violation of a housing, health, building, sanitation, or other applicable statute or regulation with respect to the premises.

(3) The tenant has formed or participated in a manufactured home tenants' organization or association.

(4) The tenant has filed a legal action against the landlord or the landlord's agent for any reason.

(c) If a tenant proves that a landlord attempted to commit or committed an act under subsection (b) of this section within 90 days of the tenant's action under paragraphs (b)(1) through (b)(4) of this section, the landlord's act is presumed to be a retaliatory act.

(d) Affirmative defenses to a claim that a landlord attempted to commit or committed a retaliatory act include proof by a preponderance of the evidence of any of the following:

(1) The landlord had due cause for termination of the rental agreement under subchapters I through V of this chapter and gave the required notice to the tenant.

(2) The tenant's legal action against the landlord relates to a condition caused by the lack of ordinary care by the tenant or by a resident of the tenant's manufactured home or by a guest or visitor on the premises with the tenant's or resident's consent.

(3) The rented lot was in substantial compliance with all applicable statutes and regulations on the date of the filing of the tenant's legal action against the landlord.

(4) The landlord could not have reasonably remedied the condition complained of by the tenant by the date of the filing of the tenant's legal action against the landlord.

(e) A tenant subjected to a retaliatory act set forth in subsection (b) of this section is entitled to recover the greater of 3 months' rent, or 3 times the damages sustained by the resident, in addition to the court costs of the legal action.

(25 Del. C. 1953, § 7009; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 69 Del. Laws, c. 291, § 98(c); 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 35, § 2; 82 Del. Laws, c. 38, § 23.)

## III Landlord Obligations and Tenant Remedies [Effective Dec. 10, 2019]

### § 7020 Fees; services; utility rates [Effective Dec. 10, 2019].

(a) A "fee" or "charge" is a monetary obligation, other than lot rent, designated in a fee schedule pursuant to subsection (b) of this section and assessed by a landlord to a tenant for a service furnished to the tenant, or for an expense incurred as a direct result of the tenant's use of the premises or of the tenant's acts or omissions. A fee or charge may be considered as rent for purposes of termination of a rental agreement, summary possession proceedings, or for other purposes if specified in this title.

(b) A landlord must clearly disclose all fees in a fee schedule attached to each rental agreement.

(c) A landlord may assess a fee if the fee relates to a service furnished to a tenant or to an expense incurred as a direct result of the tenant's use of the premises. However, a fee that is assessed due to the tenant's failure to perform a duty arising under the rental agreement may be assessed only after the landlord notifies the tenant of the failure and allows the tenant 5 days after notification to remedy or correct the failure to perform. A tenant's failure to pay the fee within 5 days of notification is a basis for termination of the rental agreement under § 7016 of this title.

(d) A prospective tenant in a manufactured home community may be required to pay an application fee to be used by the landlord to determine the prospective tenant's credit worthiness. A landlord may not charge an application fee that exceeds the greater of 10% of the monthly lot rent or $50. A landlord shall, upon receipt of any money paid as an application fee, furnish a receipt to the prospective tenant for the full amount paid by the prospective tenant, and shall maintain, for a period of at least 2 years, complete records of all application fees charged and the amount received for each fee. If a landlord unlawfully demands or charges more than the allowable application fee, the prospective tenant is entitled to damages equal to double the amount demanded or charged as an application fee by the landlord.

(e) If a landlord pays a tenant's utility charge to a third party due to the tenant's failure to pay the utility charge, the charge is considered a pass-through utility charge. In addition to any late charge paid by the landlord to the third party, the landlord may assess a third-party-payment fee not to exceed the greater of 5% of the total payment by the landlord to the third party or $25.

(f) A landlord may assess a late-payment fee for the late payment of rent if all of the following apply:

(1) The rent is not paid within 5 days after the due date specified in the rental agreement.

(2) The rental agreement provides for a late-payment fee.

(g) A landlord may assess an optional-user fee for the use of designated facilities or services. Failure of a tenant to pay an optional-user fee for requested use of a facility or service may not be the basis for termination of the rental agreement. However, continued use of the requested facility or service without paying the optional-user fee may result in termination of the rental agreement under § 7016 of this title. Optional-user fees include fees for the use of a swimming pool, marine facilities, and tennis courts.

(h) The amount of an optional-user fee must be reasonably related to the cost of providing the facility or service upon which the fee is based.

(i) A fee may not be increased more than once during any 12-month period. A utility rate may be adjusted as provided in subsection (j) of this section. A landlord shall notify a tenant in writing of any fee increase or additional fee at least 60 days prior to the effective date of the increase or addition. A fee increase or an additional fee is unenforceable unless proper written notice has been given to the tenant.

(j) A landlord may charge a tenant for utilities provided by the landlord to the tenant under the terms of the rental agreement. The rate charged by a landlord for a utility may not exceed the utility's retail consumer rate, and the rate charged by the landlord may be adjusted without notice on a monthly basis.

(k) A landlord may not assess an entrance or exit fee. An entrance fee is any fee assessed by a landlord to a tenant prior to the tenant's occupancy of a rented lot, except for an application fee or a security deposit, or for those fees or charges for utilities, for direct services actually rendered, or for the use of facilities, all of which must be identified and described in the rental agreement or in a separate notice under § 7008 of this title. An exit fee is a fee assessed by a landlord to a tenant immediately prior to or after the tenant's final departure from the rented lot, except for those fees or charges for direct services actually rendered by the landlord which would not otherwise be provided without charge in the normal course of business.

(l) If a utility, facility, or service previously provided pursuant to the rental agreement is discontinued, the landlord shall adjust the tenant's rent, charge, or fee payment by deducting the landlord's direct operating costs of providing the discontinued utility, facility, or service. An adjustment is determined as follows:

(1) No less than 60 days prior to the discontinuance of the utility, facility, or service, the landlord shall notify all affected tenants of the discontinuance, and include in the notification an explanation of the discontinuance and the reduction in the direct operating cost, if any, associated with the discontinuance.

(2) Within 10 days after the landlord's notice pursuant to paragraph ()(1) of this section, the tenants may form a committee not to exceed 5 members. The committee and the landlord shall meet together at a mutually convenient time and place to discuss the discontinuance of the utility, facility, or service.

(3) At the meeting, the landlord shall disclose and explain all material factors for the proposed discontinuation of the utility, facility, or service, together with supporting documentation. The reduction in the direct operating cost of the utility, facility, or service, as determined by an independent public accountant or certified public accountant paid for by the landlord, is binding upon both the landlord and the tenants.

(m) Notwithstanding any other provision in this chapter, where there exists a community center available for use by community tenants, the community owner or landlord shall not refuse to make such community center available to a tenant's association or to a group of tenants, whose purpose of such use is to address matters affecting or relating to such tenants' rights, obligations, or privileges in, about, or relating to the manufactured home community. The use of the community center for such meetings shall be at no additional charge to the tenants as imposed for ordinary use by tenants and the landlord shall honor the request for use of the community center by the tenants' association or group of tenants within 14 days after a request to the landlord has been made. The tenants shall abide by all existing rules and regulations established for the community center.

(65 Del. Laws, c. 446, § 1; 74 Del. Laws, c. 35, § 2; 77 Del. Laws, c. 390, § 1; 82 Del. Laws, c. 38, § 25.)

## § 7021 Termination of rental agreement by tenant during first month of occupancy; during first 18 months of occupancy [Effective Dec. 10, 2019].

(a) If a landlord fails to substantially comply with the provisions of a rental agreement, or if there is a material noncompliance with this subchapter or any statute, ordinance, or regulation governing the landlord's maintenance or operation of the manufactured home community, a tenant may, upon written notice to the landlord, terminate the rental agreement and vacate the rented lot by removing that tenant's manufactured home and all personal possessions at any time during the first month of occupancy. The tenant has no further obligation to pay rent after the date of vacating the lot. A tenant retains the right to terminate a rental agreement beyond the first month of occupancy if the tenant remains in possession of the lot in reliance on the written promise by the landlord to correct the condition or conditions which would justify termination of the agreement by the tenant during the first month of occupancy.

(b) If a condition exists which deprives a tenant of a substantial part of the benefit and enjoyment of the bargain pursuant to the rental agreement, the tenant may notify the landlord in writing of the condition, and, if the landlord does not remedy the condition within 15 days from the date of mailing, the tenant may terminate the rental agreement and vacate the rented lot by removing the tenant's own manufactured home and all personal possessions. The tenant has no further obligation to pay rent after the date of vacating the lot. Notice pursuant to this subsection need not be given if the condition renders the premises uninhabitable or poses an imminent threat to the health, safety, or welfare of the tenant or a resident of the tenant's manufactured home.

(c) A tenant may not terminate a rental agreement pursuant to this section for a condition caused by lack of due care by the tenant, a resident of the tenant's manufactured home, or any other person on the premises with the tenant's or resident's consent.

(d) If a condition referred to in subsection (a) or (b) of this section was caused by the landlord, the tenant may recover any damages sustained as a result of the condition, including reasonable expenditures necessary to obtain adequate substitute housing while the manufactured home is uninhabitable or while an imminent threat to health, safety, or welfare exists, or while the tenant is deprived of a substantial part of the benefit and enjoyment of the bargain pursuant to the rental agreement prior to the termination of the rental agreement by the tenant, and for a reasonable length of time following the termination of the rental agreement.

(e) If a landlord or the landlord's authorized representative intentionally misrepresents a material fact regarding a manufactured home community, the scope or extent of services provided by the landlord, or a provision of a rental agreement in a brochure, newspaper, radio, or television advertisement, or other document or advertisement, for the purpose of inducing a tenant to enter into a rental agreement, and the tenant reasonably relies upon the misrepresentation to the tenant's detriment when entering into the rental agreement, the tenant has the right to terminate the rental agreement within 18 months of execution of the rental agreement.

(82 Del. Laws, c. 38, § 26.)

### § 7022 Lot Rental Assistance Program [For application of this section, see 79 Del. Laws, c. 304, § 7] [Effective Dec. 10, 2019].

(a) A homeowner or tenant in a manufactured home community who is eligible for Social Security Disability (SSD) or Supplemental Security Income (SSI) benefits or who is 62 years of age or older is eligible for lot rental assistance from the manufactured home community owner if the homeowner or tenant meets all of the following criteria:

(1) The homeowner or tenant must have owned the manufactured home or resided in the home in the manufactured home community prior to July 1, 2006.

(2) The homeowner or tenant must reside full time and exclusively in the manufactured home in the manufactured home community, and the manufactured home must be the homeowner's or tenant's only residence.

(3) The lot rent, excluding utility charges and other charges, fees, and assessments that are part of the services rider required under § 7008(a)(9) of this title, must exceed 30% of the income definition, as stated in the Delaware State Housing Authority Fact Book (DSHA Fact Book), or its successor document, for the United States Department of Housing and Urban Development (HUD) for the county median income limits based upon 40% of the county's median income for the number of residents in the home. For purposes of this section, "income" includes the income of all occupants of the manufactured home, whether or not an occupant is a tenant, and of all tenants of the manufactured home, whether or not a tenant is an occupant.

(4) The total liquid assets, including but not limited to bank accounts, stocks, and bonds of the homeowner or homeowners, tenant or tenants, and other residents, may not exceed $50,000.

(5) The homeowner, tenant, and other residents must provide to the community owner all documentation necessary to determine eligibility for lot rental assistance, such as bank records, eligibility letters, tax returns, and brokerage statements.

(6) The homeowner, tenant, and other residents and the manufactured home must be in substantial compliance with all manufactured home community rules, regulations, and standards.

(b) The homeowner, tenant, and other residents may not be recipients of any other rental assistance funding.

(c) Lot rental assistance or rent credit received by a homeowner or tenant pursuant to this section is not transferable upon the sale of the manufactured home or the transfer of the rental agreement to a third-party purchaser.

(d) A homeowner or tenant who qualifies for lot rental assistance under subsection (a) of this section is entitled to lot rental assistance for a term of 1 year. Lot rental assistance for a qualified homeowner or tenant is a credit which is computed as the difference between the then-current lot rent and 30% of the income definition for the county median income, as stated in the DSHA Fact Book for the number of residents in the home; provided, however, that the lot rent for an eligible homeowner or tenant after application of a lot rental assistance credit may not exceed 30% of the income definition for the county median income, as stated in the DSHA Fact Book for the number of residents in the home.

(e) The homeowner or tenant has the responsibility to reestablish annually eligibility for lot rental assistance if that homeowner or tenant believes that the homeowner or tenant remains eligible for lot rental assistance. The homeowner or tenant must reestablish eligibility within 45 days immediately before the anniversary date of the prior determination of eligibility.

(f) (1) A community owner who is required to participate in the lot rental assistance program shall provide notice of the program to all homeowners and tenants in the community, and shall provide, under paragraph (f)(2)a. or (f)(2)b. of this section, renewal notices to all program participants at least 45 days before a participant's term of assistance expires. If the community owner does not provide a renewal notice, the lot rental assistance credit remains in effect until 45 days after the community owner provides notice. Upon receiving notice, a homeowner or tenant has 45 days to reestablish program eligibility by providing necessary documents and information to the community owner. If the homeowner or tenant fails to reestablish eligibility within 45 days of notice, the community owner may terminate the lot rental assistance credit.

(2) a. Unless otherwise specified, renewal notice required by this subsection may be served personally upon a homeowner or tenant of a manufactured home community by leaving a copy of the notice at the homeowner's or tenant's dwelling place with an adult person who resides therein.

b. In lieu of personal service, renewal notice required by this subsection may be sent by regular first class mail with proof of mailing or by certified mail, return receipt requested, to the homeowner or tenant at the address of the homeowner's or tenant's rented lot, or at an alternative address which the homeowner or tenant provided in writing to the community owner.

(g) During the period of any lot rental assistance, a homeowner or tenant must remain current with payment of rent after the application of the lot rental assistance credit, as well as with payment of utility fees and other charges and assessments. If the homeowner or tenant

does not pay all lot rent after the application of the lot rental assistance credit, as well as pay utility fees and other charges and assessments on or before the due date or during the grace period provided under the law or otherwise, then the lot rental assistance credit may be immediately terminated upon notice, and the homeowner or tenant will not be eligible for further lot rental assistance.

(h) A homeowner or tenant receiving lot rental assistance credit must notify the community owner immediately of any substantial change in that homeowner's or tenant's financial situation or in the composition of the household.

(i) Any intentional misrepresentation by an applicant of that applicant's financial situation or living arrangements which, if the truth were known, would have resulted in the denial of lot rental assistance shall result in the immediate termination of all lot rental assistance, and an immediate obligation to reimburse all credits received under the lot rental assistance program to the point of the initial misrepresentation. A community owner may treat the amounts due and owing as a rent delinquency.

(j) A community owner shall treat all documents and information submitted for the lot rental assistance program as confidential and may not disclose the documents or information publicly or use them in any manner other than to determine eligibility under the lot rental assistance program. Any intentional public dissemination of confidential information provided pursuant to the lot rental assistance program is subject to civil relief which is reasonable and appropriate under Delaware law.

(k) Nothing in this section prohibits the owner of a manufactured home community from offering a lot rental assistance program that provides benefits over and above the benefits set forth in this section, or that extends eligibility for participation in the program.

(l) The provisions of this section do not apply to a manufactured home community with 25 or fewer manufactured home lots; provided, however, that an owner of such a manufactured home community may voluntarily offer a lot rental assistance program to the homeowners and tenants of the community.

(m) For the purpose of benefiting persons aged 62 and older, this section establishes a narrow exception to the prohibition against housing discrimination on the basis of "age" under Chapter 46 of Title 6, otherwise known as Delaware's Fair Housing Act [§ 4600 et seq. of Title 6].

(75 Del. Laws, c. 382, § 7; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 63, § 2; 82 Del. Laws, c. 38, § 27.)

## Subchapter III

## Termination of Rental Agreement; Change in Land Use [Effective Dec. 10, 2019]

### § 7023 Change of use; conversion [Effective Dec. 10, 2019].

This subchapter governs a change in use of a manufactured home community, under § 7024(b) of this title, to any use other than a conversion of the community to a manufactured home cooperative or condominium community, which is governed by Chapter 71 of this title.

(74 Del. Laws, c. 35, § 2; 82 Del. Laws, c. 38, § 29.)

### § 7024 Termination or nonrenewal of rental agreement by landlord; due cause; change in land use [Effective Dec. 10, 2019].

(a) A landlord may terminate a rental agreement for a lot in a manufactured home community before it expires or may refuse to renew an agreement only for due cause. "Due cause" means any of the following:

(1) An intended change in the use of the land of a manufactured home community under subsection (b) of this section.

(2) The grounds for termination under § 7016 of this title.

(b) If a change is intended in good faith in the use of land on which a manufactured home community or a portion of a manufactured home community is located and the landlord intends to terminate or not renew a rental agreement, the landlord shall do all of the following:

(1) Provide all tenants affected with at least a 1-year termination or nonrenewal notice, which informs the tenants of the intended change of use and of their need to secure another location for their manufactured homes. The landlord may not increase the lot rental amount of an affected tenant after giving notice of a change in use.

(2) Give all notice required by this section in writing. All notice must be posted on the affected tenant's manufactured home and sent to the affected tenant by certified mail, return receipt requested, addressed to the tenant at an address specified in the rental agreement or at the tenant's last known address if an address is not specified in the rental agreement.

(3) Provide, along with the 1-year notice required by paragraph (b)(1) of this section, a relocation plan (Plan) to each affected tenant of the manufactured home community. The Plan must be written in a straightforward and easily comprehendible manner and include all of the following:

a. The location, telephone number, and contact person of other manufactured home communities, known to the landlord after reasonable effort, within a 25-mile radius of the manufactured home community where the change of land use is intended.

b. The location, telephone number, and contact person of housing for tenants with disabilities and for older tenants, known to the landlord after reasonable effort, within a 25-mile radius of the manufactured home community where the change of land use is intended.

c. A listing, known to the landlord after reasonable effort, of government and community agencies available to assist tenants with disabilities and older tenants.

d. A basic description of relocation and abandonment procedures and requirements.

e. A preliminary indication of whether a tenant's manufactured home can or cannot be relocated.

f. A copy of this section of the Code.

(4) Submit the Plan to the Delaware Manufactured Home Relocation Authority at the same time that the Plan is submitted to the affected tenants.

(5) Update the Plan and distribute the updated Plan every 3 months. If the landlord fails to provide a quarterly update to each affected tenant and to the Authority, the date of termination of the tenant's rental agreement will be extended by 1 month for each omitted quarterly update.

(6) During the relocation process observe and comply with all federal, state, and local laws relating to older tenants and tenants with disabilities.

(c) If a manufactured home community owner does not in good faith intend to change the land use of the community, yet provides a homeowner or tenant with a termination or nonrenewal notice pursuant to subsection (b) of this section, the community owner has committed the act of misrepresentation with intent to deceive the homeowner or tenant.

(1) A violation of this subsection is subject to all of the following civil penalties:

a. A cease and desist order.

b. Payment of a monetary penalty of not more than $250 for each violation.

c. Restitution.

d. Such other relief as is reasonable and appropriate.

e. Double the monetary penalty if the homeowner or tenant is over 65 years old.

(2) Prima facie evidence that a community owner did not intend in good faith to change land use includes evidence that the community owner reused the land for lot rentals for manufactured homes within 7 years of providing a tenant with a termination or nonrenewal notice, and did not make a material and bonafide effort to change the subdivision plan or zoning designation, or both.

(3) A court may award attorneys' fees and costs to a homeowner if it determines that the community owner violated this section.

(d) If a landlord has given the required notice to a tenant and has fulfilled all other requirements of this subchapter, the failure of the Authority to perform its duties or authorize payments does not prevent the landlord from completing the change in use of land.

(25 Del. C. 1953, § 7011; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 74 Del. Laws, c. 35, § 2; 75 Del. Laws, c. 375, §§ 2, 3; 82 Del. Laws, c. 38, § 30.)

## Subchapter IV

## Right of First Offer

### § 7026 Right of first offer; duty to negotiate in good faith, penalties for noncompliance [Effective Dec. 10, 2019].

(a) If a community owner has decided to sell, transfer, or convey all or part of the community, the community owner and the homeowner association shall negotiate in good faith for the sale, transfer, or conveyance of the community to the homeowner association. If a party fails to negotiate in good faith, the court shall award reasonable attorneys' fees to the prevailing party.

(b) If a community owner or a homeowner association fails to comply with any provision of this section, either party has standing to seek equitable relief, including declaratory relief, injunctive relief, and the appointment of a receiver. The offending party is liable for actual damages. If a court of competent jurisdiction finds that the offending party wilfully and intentionally failed to comply with the requirements of this section, it is a per se violation of the Consumer Fraud Statute, § 2511 et seq. of Title 6, and the aggrieved party may be entitled to recover treble damages. In any action under this section, the court may award reasonable attorneys' fees and costs.

(c) Chapter 71 of this title does not apply to the sale, transfer, or conveyance of manufactured home communities under this section.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 32.)

### § 7027 Right of first offer; notice required before sale of manufactured home community [Effective Dec. 10, 2019].

(a) Upon reaching a decision to sell, transfer, or convey all or part of a manufactured home community, the manufactured home community's owner shall provide notice of the homeowner association's right of first offer to purchase all or part of the community to the community's homeowner association if one exists, to the Delaware Manufactured HomeOwners Association (DMHOA) or its successor, and to the Delaware Manufactured Home Relocation Authority (Authority).

(1) The Authority shall send an annual notice under § 7015 of this title, to all registered community owners, stating that the community owner is required to comply with the requirements of this section if the community owner decides to sell, transfer, or convey all or part of the community. In addition, the notice must state that every manufactured home community must be registered with the Delaware Manufactured Home Relocation Authority, and that all fund assessments must be paid to date prior to the sale, transfer, or conveyance of the community.

(2) The Authority shall notify the manufactured home community's owner if a homeowner association for that community has been registered with the Authority.

(b) (1) If a homeowner association wishes to use its right of first offer under subsection (a) of this section, either directly through a community owner or its designated agent, or indirectly through DMHOA or its successor or through the Authority, that homeowner association must register with the Authority as prescribed by the Authority.

(2) a. There can be only 1 homeowner association per community eligible to participate in the process of this section. That homeowner association must register with the Delaware Manufactured Home Relocation Authority as prescribed by the Authority. The first association to register in compliance with the requirements of this section will be the official homeowner association eligible to participate in the process. In order to be eligible for registration with the Authority, the homeowner association must adopt bylaws.

b. In order to be eligible for registration with the Authority, the homeowner association must comply with all of the following requirements:

1. The homeowner association must be incorporated in the State and under the laws of the State.

2. The homeowner association must have written bylaws that comply with the laws of this State. The bylaws must provide that each homeowner of each home site is automatically entitled to vote as a special member of the association concerning matters related to the purchase of all or part of the community after a notice of right of first offer has been extended to the homeowner association by the community owner. Special members under this paragraph may not be required to meet other preconditions of general membership including the payment of dues.

c. A homeowner who is a community owner, or an employee, agent, or servant of, or who has any business relationship with, the community owner may not directly or indirectly participate in the process, except that the homeowner may vote. Nothing herein prevents a homeowner association, after a vote of the members present, from excluding a community owner, or an employee, agent, or servant of the community owner from a meeting where confidential information relating to the homeowner association's strategies in connection with the purchase will be discussed.

(c) If a community owner intends to offer more than 1 community for sale in a single transaction, a simple majority of members of the respective homeowner associations in Delaware must vote in the affirmative to support their letter of response to the community owner. If a community owner offers a Delaware community for sale, along with 1 or more communities not located in the State, the community owner must afford the residents of the Delaware community a right of first offer as prescribed by this section for their community, separate and apart from the community or communities not located in the State.

(d) (1) a. If the Authority has informed the community owner that a registered homeowner association exists in the community, the community owner shall send the right of first offer directly to the homeowner association. The right of first offer shall be sent by overnight service with signature receipt.

b. The right of first offer also shall be sent indirectly to the homeowner association through DMHOA, or its successor, through the Consumer Protection Unit of the Department of Justice and through the Authority. The right of first offer shall be sent to the Authority, the Consumer Protection Unit of the Office of the Department of Justice or DMHOA, or its successor, by overnight service with signature receipt.

(2) If the Authority has not informed the community owner that a registered homeowner association exists in the community, the community owner must send the right of first offer directly to the Authority. The right of first offer must be sent by overnight service with signature receipt. The right of first offer to the Authority shall include a list of the known names and mailing addresses of all homeowners in the community.

(3) The Authority shall then, within 5 business days of receipt of the community owner's right of first offer, send a summary notice to all homeowners on the list.

a. The summary notice shall inform the homeowners that the community is for sale and they should contact their homeowners association to secure further information. If no homeowners association exists then the homeowner will need to organize a homeowners association meeting the requirements of subsection (b) of this section in order to pursue the right of first offer.

b. The right of first offer shall be extended indirectly to the homeowners through DMHOA or its successor and the Consumer Protection Unit of the Department of Justice. The right of first offer shall be sent to DMHOA and the Consumer Protection Unit of the Department of Justice by the community owner by overnight service with signature receipt.

(4) The right of first offer must include all of the following:

a. A statement that the community owner has decided to sell, transfer, or convey all or part of the community. The statement must indicate the real property and fixtures to be included in the sale of the community.

b. The price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community.

c. A form confidentiality statement indicating that all significant and material information, including operating expenses and other relevant operating and capital expenditure costs related to the community, shall remain confidential and cannot be released to any individual not a signer to the confidentiality statement. The statement may include reasonable penalties for breach of confidentiality.

d. A statement that the confidentiality statement must be signed by any individual of the homeowners association seeking to utilize the confidential information and sent by overnight service with signature receipt to the community owner.

e. A statement that once the confidentiality statement is received by the community owner, the community owner will send by overnight service with signature receipt the price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community and all significant and material information, including operating expenses and other relevant operating and capital expenditure costs related to the community.

f. A statement that the homeowner association has 30 calendar days from the date of mailing of the right of first offer to respond to the offer.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 32.)

## § 7028 Right of first offer; notice not required before sale of manufactured home community [Effective Dec. 10, 2019].

A manufactured home community owner is not required to give notice of or extend a right of first offer to a homeowner association, DMHOA or its successor, or the Authority under the any of the following circumstances:

(1) A bank, mortgage company, or any other mortgagee has foreclosed on the community and the mortgagee is selling the community at a foreclosure sale, or is selling the community after having purchased the community at a foreclosure sale.

(2) The sale, transfer, or conveyance of the community is to a family member of the community owner on the modified Table of Consanguinity under § 7014 of this title or to a trust, the beneficiaries of which are family members of the owner on the modified Table of Consanguinity; or the sale, transfer, or conveyance is to a family member on the modified Table of Consanguinity who is included within the line of intestate succession if the community owner dies intestate.

(3) The sale, transfer, or conveyance is by a partnership to 1 or more of its partners.

(4) The sale, transfer, or conveyance is between joint tenants or tenants-in-common.

(5) The sale, transfer, or conveyance is by gift, devise, or operation of law.

(6) The sale, transfer, or conveyance is pursuant to eminent domain.

(7) The sale, transfer, or conveyance is to an affiliate. An affiliate'' means an individual, corporation, limited partnership, unincorporated association, or entity that holds any direct or indirect ownership interest in the community, except that the notice and extension of the right of first offer must be granted to a homeowner association where the majority interest in the ownership of the community or the power, directly or indirectly, to direct or cause the direction of the management and policies over the community, whether through ownership of voting stock, by contract, or otherwise, is sold, transferred, or conveyed to any individual, corporation, limited partnership, unincorporated association, or other entity which has not held such a direct or indirect ownership interest in the community for 3 or more years.

(8) The sale, transfer, or conveyance is an exchange of the manufactured housing community for all, or substantially all, of other real property under § 1031 of the Internal Revenue Code [26 U.S.C. § 1031] or any other provision of the Internal Revenue Code that allows for exchanges or tax-free exchanges, regardless of whether the exchange also involves the payment of cash or other consideration.

(9) A change in use of the manufactured home community by the existing community owner.

(82 Del. Laws, c. 38, § 32.)

## § 7029 Right of first offer; response required by homeowner association [Effective Dec. 10, 2019].

(a) A homeowner association must respond in writing to the notice of a right of first offer and send the response by overnight service with signature receipt to the community owner or the community owner’s agent or attorney within 30 calendar days from the date of the mailing of the notice sent by the community owner to the association or to the Authority. The homeowner association’s response must clearly indicate 1 of the following:

(1) The members of the association intend to accept the purchase price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community, as described in the notice of right of first offer.

(2) The members of the association do not accept the price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community, as described in the notice of right of first offer, but that they intend to offer to purchase the community at an alternative price.

(3) The members of the association have no interest in purchasing the community and that they do not intend to proceed any further in the transaction, or, if the members of the association do not respond, they shall be deemed to have notified the community owner that they have no interest in purchasing the community.

(b) If the homeowners association does not respond in material compliance with this section, such failure to respond shall be deemed to serve as notice to the community owner that the homeowners association does not wish to purchase the community.

(c) If the homeowner association responds that it has no interest in purchasing the community, or fails to respond under § 7029, § 7030, § 7031, or § 7032 of this title, the community owner shall file an affidavit of compliance under § 7036 of this title.

(d) Failure of the homeowner association to accept the price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community as stated in the notice of right of first offer; to state an alternative price under § 7030 of this title; or to respond under § 7032 of this title, eliminates the right of the homeowner association to purchase the community during the remainder

of the 12-month period that commenced on the date of the community owner's notice of intention to sell, transfer, or convey all or part of the community.

(e) A homeowner association may transfer or assign a right of first offer only to an organization formed or controlled by the homeowners to assist only in the purchase and operation of the community. Therefore, other than the preceding condition in this subsection, a right of first offer is neither transferable nor assignable.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 32.)

## § 7030 Right of first offer; offer of an alternative price [Effective Dec. 10, 2019].

(a) An alternative offer of price for the sale, transfer, or conveyance of the community from the homeowner association remains valid for 6 months, unless withdrawn by the homeowner association in writing and sent to the community owner by overnight service with signature receipt. If the community is still for sale at the expiration of the initial 6-month alternative offer period, the homeowners association shall have the right to refresh their alternative offer within 7 days of its expiration upon written notice to the community owner. The refreshed offer will be valid for 6 months. The homeowners association shall have the right to refresh their offer every 6 months until the property is sold or 18 months has elapsed from the time notice was provided under § 7027(a) of this title, whichever comes first. The alternative offer and any refreshed alternative offer may be amended at any time upon written notice to the community owner. In the event a community owner decides they no longer want to sell a community after having provided the homeowners association with the notice of first offer, any outstanding alternative offer shall be void. The community owner shall promptly notify the homeowners association of their decision to remove the community from the market.

(b) A notice to withdraw an alternative offer must be approved by the members of the homeowners association. The approval percentage must be stated in the notice to the community owner.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 32.)

## § 7031 Right of first offer; sale to a third party at a lower price [Effective Dec. 10, 2019].

(a) The community owner may not sell the community to a third party at or less than the price offered in the alternative offer from the homeowner association unless 1 of the following occur:

(1) The offer is withdrawn under § 7030(b) of this title.

(2) The homeowner association is given 30 calendar days to match the lower price and all of the material terms and conditions of the lower offer.

(b) The notice of the right to match the lower third-party offer shall be sent to the homeowner association by overnight service with signature receipt. The notice must state the price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community.

(c) Upon written demand from the homeowner association, the community owner must provide the homeowner association with tangible evidence of the lower offer received within 3 business days of receipt of the written request from the homeowner association by overnight service with signature receipt.

(d) If the homeowner association matches the offer within 30 calendar days of receipt of the notice, the community owner is obligated to move to the next step of the negotiation with the homeowner association under § 7033 of this title.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 32.)

## § 7032 Right of first offer; sale to a third party at a higher price [Effective Dec. 10, 2019].

(a) The community owner may accept an offer from a third party higher than the alternative price, if any, offered by the homeowner association without further obligation to the homeowner association unless there are significant or material changes in terms and conditions. However, the homeowner association must be given 7 business days to match the higher offer if 1 of the following apply:

(1) The higher offer is less than $40 million and the homeowner association's alternate price is within 6% of the offer.

(2) The higher offer is $40 million or greater and the homeowner association's alternate price is within 4.5% of the offer.

(b) The notice of the right to match the higher offer under subsection (a) of this section, must be sent to the homeowner association by overnight service with signature receipt. The notice must state the price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community. Upon written demand from the homeowner association, the community owner must provide the homeowner association with tangible evidence of the higher offer received within 3 business days of receipt of the written request from the homeowner association by overnight service with signature receipt.

(c) If the homeowner association matches the offer within 7 business days of receipt under subsection (a) of this section, the community owner must move to the next step of the negotiation with the homeowner association under § 7033 of this title. The community owner must not accept or entertain a higher offer from a third party after the homeowners association matches the offer.

(d) If the community owner accepts an offer from a third party that is greater than the alternative price offered by the homeowners association, such that the provisions of either under subsection (a) of this section, are not triggered, the community owner shall certify

this fact in writing to both the homeowner association and the Consumer Protection Unit within 7 business days of acceptance of the third-party offer. Such written certification shall also indicate whether the accepted third-party offer contained any significant or material changes in terms or conditions.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 32.)

## § 7033 Right of first offer; contract of sale [Effective Dec. 10, 2019].

(a) If a homeowner association responds to the notice of right of first offer under § 7029 of this title, or if the community owner agrees to sell the community to the homeowner association under § 7030 of this title, the homeowner association has an additional 30 days to formalize the agreed price, terms, and conditions into a contract of sale. This 30-day period may not be used to renegotiate the price, terms, or conditions agreed to during the first 30-calendar-day period unless mutually agreed to in writing. Time is of the essence.

(b) Failure of the homeowner association to formalize a contract of sale during the 30-day period following an agreement of price, terms, and conditions eliminates any right of the homeowner association to purchase the community during the remainder of the 12-month period that commenced on the date of the community owner's notice of intention to sell, transfer, or convey all or part of the community.

(c) Upon a formalized contract of sale being signed by both parties, the change of ownership of the community must be completed within 90 days. Time is of the essence.

(d) (1) The completion date may be extended beyond the 90-day period if both parties agree to an extension. However, neither party is obligated to agree to an extension.

(2) An agreement to extend the settlement date must be in writing and signed by both parties to the transaction.

(3) If the parties did not fully exhaust the 30-day periods under subsections (a) or (b) of this section or paragraph § 7029(a) of this title, any unused days may be added to the 90-day period in subsection (c) of this section by either party by providing written notification to all other parties within 5 business days prior to the end of the 90-day period. The time period for calculation of unused days is from the dates of mailing of the notices required by each section.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 32.)

## § 7034 Right of first offer; failure to complete sale [Effective Dec. 10, 2019].

If, for any reason except default by the community owner, the homeowner association and the community owner do not complete the sale within the 90-day period under § 7033(c) of this title before the expiration of the extension period agreed to by the parties under § 7033(d) of this title, the right of first offer obligations of the community owner to the homeowner association are terminated, and the community owner may sell, transfer, or convey all or part of the community to any third party at the price offered in the right of first offer, or at a higher price or lower price, for the remainder of the 12-month period that commences on the date of the community owner's notice of intention to sell, transfer, or convey all or part of the community.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 32.)

## § 7035 Right of first offer; auction [Effective Dec. 10, 2019].

(a) If the Authority has sent the required annual notice to a community owner and the community owner then decides to sell, transfer, or convey all or part of the manufactured home community at auction, the community owner shall notify the homeowner association directly of its intention if the Authority has informed the community owner of a registered homeowner association in that community. The community owner's notice must also be sent to DMHOA or its successor, to the Authority. A copy must be sent under § 7015 of this title to each homeowner in the affected community. If the Authority has not informed the community owner that a registered homeowner association exists in the community, the community owner must send the notice of the intent to convey the community at auction directly to the Authority. The notice shall include a list of the known names and mailing addresses of all homeowners in the community. The Authority shall, within 5 business days of the receipt of the notice from the community owner, send the notice to all homeowners on the list.

(b) The notice of a community owner's intention to sell, transfer, or convey all or part of the manufactured home community at auction must be sent within 10 days after a date for the auction has been established and at least 60 days prior to the date of the auction. The notice must be sent by overnight service with signature receipt. The notice must state all of the following:

(1) The intention to sell the community at auction.

(2) The date, time, and place of the auction.

(3) The terms of the auction, which must be similar to other auction practices and standards in the area.

(c) At least 60 days prior to a scheduled auction, the community owner shall provide all pertinent information directly to the homeowner association if the Authority has informed the community owner of a registered homeowner association in the community. Copies of the pertinent information must also be sent to DMHOA or its successor, to the Authority. A community owner may not be held liable for misinformation provided by a third-party professional. Pertinent information from third-party professionals, if already available, including any of the following:

a. Descriptions of topography.

b. Soils, including a Phase I environmental soil study and a Phase II study, if required.
c. Flood plain study.
d. Wetlands study.
e. Water system.
f. Water quality.
g. Distribution system.
h. Sanitary survey.
i. Wastewater disposal.
j. Access, egress, and interior community roads.
k. Storm water drainage.
l. Electrical, telephone, and cable utility services.
m. Boundary survey, home lot plan, if available.
n. A USGS plan.
o. Aerial photo.
p. Tax map.
q. Flood zone map.
r. Soils map.
s. Site photographs.
t. A future repair and capital improvement analysis.

(d) Within 30 days of receiving the notice of the auction, a homeowner association in the affected community may make an offer to purchase the community. If the homeowner association makes an offer, and the community owner accepts the offer, the parties shall negotiate in good faith for the sale, transfer, or conveyance of the community to the homeowner association. If the community owner accepts the offer, a contract shall be formalized and ownership shall be transferred as under § 7033 of this title.

(e) If the homeowner association makes an offer to purchase the community within 30 days after receiving the notice of the auction sale, but the community owner does not accept the offer, the community owner may proceed to auction the community. The homeowner association's offer must be the minimum bid at the auction and the community owner may not accept a bid of less than the homeowner association's offer.

(f) If a homeowner association participates in the auction process by providing deposit moneys, if required, the homeowner association has the right to purchase the community within 7 days after the date of the auction for 1% higher than the winning bid with the same terms and conditions. If a homeowner association decides to purchase the community for 1% higher than the winning bid under the same terms and conditions, a contract of sale must be formalized within 20 calendar days, and the change of ownership must be completed within 90 days. However, if the homeowner association does not participate in the auction process, or if the homeowner association fails to respond within 7 business days and to formalize a contract within 20 calendar days, or to complete the change of ownership within 90 calendar days, the community owner has no further obligation to the homeowner association.

(g) If the winning bidder does not complete the transaction, and if the association still does not have the next highest bid, and if the community owner still intends to sell the community to the next highest bidder, the community owner must repeat the procedure under § 7035(f) of this title.

(h) A community owner has the right to accept or reject any auction bids.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 32.)

## § 7036 Right of first offer; affidavit of compliance [Effective Dec. 10, 2019].

Affidavit of compliance with the requirements of this subchapter.

(1) A community owner may, if appropriate under the circumstances, record in the Registry of Deeds of the county in which the community is located an affidavit in which the community owner certifies to 1 of the following:

a. The manufactured home community owner has complied with the requirements of this section, and has included a copy of the notice sent to the residents of the community.

b. The sale, transfer, or conveyance of the community is exempt from this section, under § 7026(c) of this title.

(2) A party acquiring an interest in a manufactured home community, and title insurance companies and attorneys preparing, furnishing, or examining any evidence of title, have the right to rely on the truth and accuracy of all statements appearing in an affidavit recorded under this section and are under no obligation to inquire further as to any matter or fact relating to the community owner's compliance with the provisions of this subchapter IV of this chapter.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 32.)

## Subchapter V

## Delaware Manufactured Home Relocation Trust Fund [Effective Dec. 10, 2019]

### § 7041 Delaware Manufactured Home Relocation Authority [For application of this section, see 79 Del. Laws, c. 304, § 7] [Effective Dec. 10, 2019].

(a) The Authority shall be administered by a board of directors ("Board") as follows:

(1) Five voting members as follows:

a. One member who is appointed by the Governor from a list of at least 2 nominees submitted by the largest not-for-profit association representing manufactured homeowners in the State.

b. One member who is appointed by the Governor from a list of at least 2 nominees submitted by the largest not-for-profit association representing the manufactured home industry in this State.

c. One member who is appointed by the Governor from the public-at-large.

d. One member, who is not a landlord, community owner, homeowner, or tenant, who is appointed by the Speaker of the House of Representatives.

e. One member, who is not a landlord, community owner, homeowner, or tenant, who is appointed by the President Pro Tempore of the Senate.

(2) One nonvoting member, who is not a landlord, community owner, homeowner, or tenant, appointed by the Attorney General, as a representative of the Consumer Protection Unit of the Department of Justice.

(3) All Board members shall be residents of the State and serve at the pleasure of the authority that appointed such member.

(4) The terms of the members shall be staggered so that no more than 2 members' terms end at the same time. The first 2 appointees shall serve for a term of 1 year, the next 2 appointees shall serve for a term of 2 years, and the remaining 1 appointee shall serve for a term of 3 years. Thereafter, all appointees shall serve for a term of 2 years; provided, however, that a member may be appointed for a term of less than 2 years to ensure that the Board members' terms expire on a staggered basis. The term for any member of the Board may subsequently be renewed for an additional term or additional terms.

(5) The Governor shall designate 1 member of the Board as the chairperson of the Board.

(b) (1) The Board may employ or retain such persons as are reasonable and necessary to perform the administrative and financial transactions and responsibilities of the Authority and to perform other necessary and proper functions not prohibited by law. The Authority is responsible for all direct and indirect costs for its operations, including receipts and disbursements, personnel, rental of facilities, and reimbursement to other state agencies for services provided and, therefore, must be fiscally revenue-neutral.

(2) Members of the Board may be reimbursed from moneys of the Authority for actual and necessary expenses incurred by them as members, but may not otherwise be compensated for their services.

(3) There is no civil liability on the part of, and no civil cause of action of any nature against, the Authority, an agent or employee of the Authority, Board, or a member of the Board for any act or omission in the performance of powers and duties under this subchapter unless the act or omission complained of was done in bad faith or with gross or wanton negligence.

(4) Meetings of the Board are subject to the provisions of the Freedom of Information Act, Chapter 100 of Title 29. All meetings must be conducted at a central location in the State, unless agreed to for a given meeting by at least 3 of the 5 board members.

(c) The Board shall do all of the following:

(1) Adopt a plan of operation and articles, bylaws, and operating rules.

(2) Establish procedures under which applicants for payments from the Authority may be approved.

(3) Authorize payments and adjust, eliminate, or reinstate the Trust Fund assessment established under § 7042 of this title only if at least 3 of the 5 members of the Board approve the payments or assessments.

(4) Facilitate the initial meeting between the homeowners and landowner and select an arbitrator under § 7053 of this title.

(d) The Authority and its board of directorsmay sue or besued and may borrow from private finance sources and issue notes or vouchers in order to meet the objectives of the Authority and those of the Trust Fund established under § 7042 of this title.

(74 Del. Laws, c. 35, § 2; 74 Del. Laws, c. 147, §§ 3, 4; 78 Del. Laws, c. 132, §§ 1-3; 79 Del. Laws, c. 63, § 5; 82 Del. Laws, c. 38, § 34.)

### § 7042 Delaware Manufactured Home Relocation Trust Fund [Terminates effective July 1, 2024] [Effective Dec. 10, 2019, until Dec. 11, 2019].

(a) The Delaware Manufactured Home Relocation Trust Fund ("Trust Fund" ) is established in the Division of Revenue of the Department of Finance for exclusive use by the Delaware Manufactured Home Relocation Authority to fund the Authority's administration and operations. All interest earned from the investment or deposit of moneys in the Trust Fund must be deposited into the Trust Fund.

(b) Moneys in the Trust Fund may be expended for only the following purposes:

(1) To pay the administrative costs of the Authority.

(2) To carry out the objectives of the Authority by assisting manufactured homeowners who are tenants in a manufactured home community where the community owner intends to change the use of all or part of the land on which the community is located or where the community owner intends to convert the manufactured home community to a manufactured home condominium community or to a manufactured home cooperative community pursuant to Chapter 71 of this title, and by assisting manufactured home community owners with the removal or disposal, or both, of nonrelocatable or abandoned manufactured homes.

(3) To carry out the Authority's responsibilities under subchapter VI of this chapter.

(c) After notifying the manufactured homeowners who are tenants in a community owner's manufactured home community that the community owner intends to change the land use or to convert the community under paragraph (b)(2) of this section, if the community owner does not change the land use or convert the community within 3 years of notification, or if the Authority finds there is prima facie evidence under § 7024(c)(2) of this title that the owner did not intend in good faith to change land use, the community owner shall, within 30 days of the date the Authority provides written notice to the community owner, reimburse the Authority for whatever moneys the Authority has expended from the Trust Fund with respect to that manufactured home community, along with double the legal interest rate. The date of the mailing of notice by the Authority is deemed the date that a community owner is notified about reimbursing the Authority. However, if the community owner, with due diligence, has not been able to complete the change-in-use process within 3 years, the Authority may grant a reasonable extension to the community owner to complete the process.

(d) The Trust Fund terminates on July 1, 2024, unless terminated sooner or extended by the General Assembly.

(e) The cap on the Trust Fund is $15 million. The cap may be adjusted, eliminated, or reinstated by the Board at any time, subject to the voting requirements under § 7041(c)(3) of this title.

(f) If the Trust Fund ceases to exist, the funds held at the time of dissolution must be liquidated as follows:

(1) Fifty percent of the total funds, on a per capita basis, to tenants of rented lots in manufactured home communities in Delaware who have occupied the lots for at least the 12 months immediately prior to the time of the dissolution.

(2) Fifty percent of the total funds to landlords owning rented lots at the time of dissolution, prorated on the number of lots actually rented by the landlords for at least the 12 months immediately prior to the time of dissolution.

(g) (1) The Board shall set a $3.00 monthly assessment for deposit in the Trust Fund for each rented lot in a manufactured home community. The Board may adjust, eliminate, or reinstate the assessment, and shall notify landlords and tenants of each adjustment, elimination, or reinstatement under Board regulations.

(2) One-half of the monthly assessment set under paragraph (g)(1) of this section is the obligation of the tenant of rented lot, and // of the assessment is the obligation of the landlord. The landlord shall collect the tenant's portion of the assessment on a monthly basis as additional rent. The landlord shall remit to the Trust Fund both its portion and the tenant's portion of the assessment on a quarterly basis. The landlord is responsible for safeguarding all assessments it collects. Failure by a tenant to pay to the landlord the tenant's portion of the assessment as additional rent is grounds for termination of the rental agreement under § 7016 of this title. An assessment is not due or collectable for a vacant lot.

(3) If a lot is rented for any portion of a month, the full monthly assessment must be paid to the Trust Fund.

(4) If a rental agreement contains a capping provision which limits the amount by which rent may be increased, the Trust Fund assessment is deemed not to be rent for purposes of rent increases.

(5) a. If within 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 Authority may notify the landlord in writing, demanding payment and stating that, unless the required payment is made within 7 days from the date of mailing, legal action may be initiated 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 § 7015 of this title. 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 under paragraph (g)(5)a. of this section 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.

(h) The Authority may not for any reason, including age, income level, or geography, exempt any landlord or tenant from paying the Trust Fund assessment.

(i) The Trust Fund must be audited annually. If the State Auditor's Office performs the audit, the Authority shall pay the cost of the audit to the State from the Trust Fund. The completed audit must be made available to the public by placing it on a website, by offering it as a hard copy for a fee which reflects reasonable reproduction cost, or in some other manner determined by the Authority.

(j) In addition to providing for an annual audit under subsection (i) of this section, the Authority shall make available to the public, at least on a quarterly basis, the amount of the payment made to each tenant and landlord, along with a description of the property related to the payment and the reason for the payment.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 35.)

### § 7042 Delaware Manufactured Home Relocation Trust Fund [Terminates effective July 1, 2024] [Effective Dec. 11, 2019].

(a) The Delaware Manufactured Home Relocation Trust Fund ( "Trust Fund" ) is established in the Division of Revenue of the Department of Finance for exclusive use by the Delaware Manufactured Home Relocation Authority to fund the Authority's administration and operations. All interest earned from the investment or deposit of moneys in the Trust Fund must be deposited into the Trust Fund.

(b) Moneys in the Trust Fund may be expended for only the following purposes:

(1) To pay the administrative costs of the Authority.

(2) To carry out the objectives of the Authority by assisting manufactured homeowners who are tenants in a manufactured home community where the community owner intends to change the use of all or part of the land on which the community is located or where the community owner intends to convert the manufactured home community to a manufactured home condominium community or to a manufactured home cooperative community pursuant to Chapter 71 of this title, and by assisting manufactured home community owners with the removal or disposal, or both, of nonrelocatable or abandoned manufactured homes.

(3) To carry out the Authority's responsibilities under subchapter VI of this chapter.

(4) To fund the Delaware Manufactured Home Owner Attorney Fund under § 7046 of this title.

(c) After notifying the manufactured homeowners who are tenants in a community owner's manufactured home community that the community owner intends to change the land use or to convert the community under paragraph (b)(2) of this section, if the community owner does not change the land use or convert the community within 3 years of notification, or if the Authority finds there is prima facie evidence under § 7024(c)(2) of this title that the owner did not intend in good faith to change land use, the community owner shall, within 30 days of the date the Authority provides written notice to the community owner, reimburse the Authority for whatever moneys the Authority has expended from the Trust Fund with respect to that manufactured home community, along with double the legal interest rate. The date of the mailing of notice by the Authority is deemed the date that a community owner is notified about reimbursing the Authority. However, if the community owner, with due diligence, has not been able to complete the change-in-use process within 3 years, the Authority may grant a reasonable extension to the community owner to complete the process.

(d) The Trust Fund terminates on July 1, 2024, unless terminated sooner or extended by the General Assembly.

(e) The cap on the Trust Fund is $15 million. The cap may be adjusted, eliminated, or reinstated by the Board at any time, subject to the voting requirements under § 7041(c)(3) of this title.

(f) If the Trust Fund ceases to exist, the funds held at the time of dissolution must be liquidated as follows:

(1) Fifty percent of the total funds, on a per capita basis, to tenants of rented lots in manufactured home communities in Delaware who have occupied the lots for at least the 12 months immediately prior to the time of the dissolution.

(2) Fifty percent of the total funds to landlords owning rented lots at the time of dissolution, prorated on the number of lots actually rented by the landlords for at least the 12 months immediately prior to the time of dissolution.

(g) (1) a. The Board shall set a monthly assessment for deposit in the Trust Fund for each rented lot in a manufactured home community and the initial amount of the assessment is $3.00. The Board may adjust, eliminate, or reinstate the assessment, and shall notify landlords and tenants of each adjustment, elimination, or reinstatement under Board regulations.

b. Beginning on December 11, 2019, the landlord portion of the monthly assessment is reduced by $0.50 for each rented lot.

c. Beginning on December 11, 2019, 50 cents of the tenant portion of the monthly assessment for each rented lot is redirected to the Delaware Manufactured Home Owner Attorney Fund under § 7046 of this title.

(2) a. The monthly assessment set under paragraph (g)(1) of this section must be paid as follows:

1. One half of the portion of the monthly assessment under paragraph (g)(1)a. of this section and the $0.50 under paragraph (g)(1)c. of this section is the obligation of the tenant of the rented lot.

2. One half of the portion of the monthly assessment under paragraph (g)(1)a. of this section, after the $0.50 reduction under paragraph (g)(1)b. of this section, is the obligation of the landlord.

b. The landlord shall collect the tenant's portion of the assessments under this section on a monthly basis as additional rent. The landlord shall remit to the Trust Fund both its portion and the tenant's portion of the assessments on a quarterly basis. The landlord is responsible for safeguarding all assessments it collects. Failure by a tenant to pay to the landlord the tenant's portion of the assessment as additional rent is grounds for termination of the rental agreement under § 7016 of this title. An assessment is not due or collectable for a vacant lot.

(3) If a lot is rented for any portion of a month, the full monthly assessment must be paid to the Trust Fund.

(4) If a rental agreement contains a capping provision which limits the amount by which rent may be increased, the Trust Fund assessment is deemed not to be rent for purposes of rent increases.

(5) a. If within 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 Authority may notify the landlord in writing, demanding payment and stating that, unless the required payment is made within 7 days from the date of mailing, legal action may be initiated 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 § 7015 of this title. 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 the notice under this paragraph (g)(5)a. is not 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 under paragraph (g)(5)a. of this section that a tenant has failed to pay its portion of the assessment. There is a rebuttable presumption that the tenant has paid its required assessment amount in full.

(h) The Authority may not for any reason, including age, income level, or geography, exempt any landlord or tenant from paying the Trust Fund assessment.

(i) The Trust Fund must be audited annually. If the State Auditor's Office performs the audit, the Authority shall pay the cost of the audit to the State from the Trust Fund. The completed audit must be made available to the public by placing it on a website, by offering it as a hard copy for a fee which reflects reasonable reproduction cost, or in some other manner determined by the Authority.

(j) In addition to providing for an annual audit under subsection (i) of this section, the Authority shall make available to the public, at least on a quarterly basis, the amount of the payment made to each tenant and landlord, along with a description of the property related to the payment and the reason for the payment.

(k) If the Delaware Manufactured Home Owner Attorney Fund ceases to exist, the funds held at the time of dissolution must be liquidated on a per capita basis to tenants of rented lots in manufactured home communities in Delaware who have occupied the lots for at least the 12 months immediately before the time of the dissolution.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 35; 82 Del. Laws, c. 62, § 3.)

## § 7042 Delaware Manufactured Home Relocation Trust Fund [Terminates effective July 1, 2024] [Effective Dec. 12, 2019].

(a) The Delaware Manufactured Home Relocation Trust Fund ( "Trust Fund" ) is established in the Division of Revenue of the Department of Finance for exclusive use by the Delaware Manufactured Home Relocation Authority to fund the Authority's administration and operations. All interest earned from the investment or deposit of moneys in the Trust Fund must be deposited into the Trust Fund.

(b) Moneys in the Trust Fund may be expended for only the following purposes:

(1) To pay the administrative costs of the Authority.

(2) To carry out the objectives of the Authority by assisting manufactured homeowners who are tenants in a manufactured home community where the community owner intends to change the use of all or part of the land on which the community is located or where the community owner intends to convert the manufactured home community to a manufactured home condominium community or to a manufactured home cooperative community pursuant to Chapter 71 of this title, and by assisting manufactured home community owners with the removal or disposal, or both, of nonrelocatable or abandoned manufactured homes.

(3) To carry out the Authority's responsibilities under subchapter VI of this chapter.

(4) To fund the Delaware Manufactured Home Owner Attorney Fund under § 7046 of this title.

(c) After notifying the manufactured homeowners who are tenants in a community owner's manufactured home community that the community owner intends to change the land use or to convert the community under paragraph (b)(2) of this section, if the community owner does not change the land use or convert the community within 3 years of notification, or if the Authority finds there is prima facie evidence under § 7024(c)(2) of this title that the owner did not intend in good faith to change land use, the community owner shall, within 30 days of the date the Authority provides written notice to the community owner, reimburse the Authority for whatever moneys the Authority has expended from the Trust Fund with respect to that manufactured home community, along with double the legal interest rate. The date of the mailing of notice by the Authority is deemed the date that a community owner is notified about reimbursing the Authority. However, if the community owner, with due diligence, has not been able to complete the change-in-use process within 3 years, the Authority may grant a reasonable extension to the community owner to complete the process.

(d) The Trust Fund terminates on July 1, 2024, unless terminated sooner or extended by the General Assembly.

(e) The cap on the Trust Fund is $15 million. The cap may be adjusted, eliminated, or reinstated by the Board at any time, subject to the voting requirements under § 7041(c)(3) of this title.

(f) If the Trust Fund ceases to exist, the funds held at the time of dissolution must be liquidated as follows:

(1) Fifty percent of the total funds, on a per capita basis, to tenants of rented lots in manufactured home communities in Delaware who have occupied the lots for at least the 12 months immediately prior to the time of the dissolution.

(2) Fifty percent of the total funds to landlords owning rented lots at the time of dissolution, prorated on the number of lots actually rented by the landlords for at least the 12 months immediately prior to the time of dissolution.

(g) (1) a. The Board shall set a monthly assessment for deposit in the Trust Fund for each rented lot in a manufactured home community. The Board may adjust, eliminate, or reinstate the assessment, and shall notify landlords and tenants of each adjustment, elimination, or reinstatement under Board regulations.

b. One-half of the monthly assessment set under paragraph (g)(1)a. of this section is the obligation of the tenant of rented lot, and 1/2 of the assessment is the obligation of the landlord.

c. Beginning on December 11, 2019, the landlord portion of the monthly assessment is credited 50 cents for each rented lot.

d. Beginning on December 11, 2019, 50 cents of the tenant portion of the monthly assessment for each rented lot is redirected to the Delaware Manufactured Home Owner Attorney Fund under § 7046 of this title.

(2) a. The monthly assessment set under this subsection must be paid as follows:

1. The tenant's portion of the monthly assessment under paragraph (g)(1)d. of this section is the obligation of the tenant of the rented lot.

2. The landlord's portion of the monthly assessment under paragraph (g)(1)c. of this section is the obligation of the landlord.

b. The landlord shall collect the tenant's portion of the assessments under this section on a monthly basis as additional rent. The landlord shall remit to the Trust Fund both its portion and the tenant's portion of the assessments on a quarterly basis. The landlord is responsible for safeguarding all assessments it collects. Failure by a tenant to pay to the landlord the tenant's portion of the assessment as additional rent is grounds for termination of the rental agreement under § 7016 of this title. An assessment is not due or collectable for a vacant lot.

(3) If a lot is rented for any portion of a month, the full monthly assessment must be paid to the Trust Fund.

(4) If a rental agreement contains a capping provision which limits the amount by which rent may be increased, the Trust Fund assessment is deemed not to be rent for purposes of rent increases.

(5) a. If within 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 Authority may notify the landlord in writing, demanding payment and stating that, unless the required payment is made within 7 days from the date of mailing, legal action may be initiated 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 § 7015 of this title. 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 the notice under this paragraph (g)(5)a. is not 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 under paragraph (g)(5)a. of this section that a tenant has failed to pay its portion of the assessment. There is a rebuttable presumption that the tenant has paid its required assessment amount in full.

(h) The Authority may not for any reason, including age, income level, or geography, exempt any landlord or tenant from paying the Trust Fund assessment.

(i) The Trust Fund must be audited annually. If the State Auditor's Office performs the audit, the Authority shall pay the cost of the audit to the State from the Trust Fund. The completed audit must be made available to the public by placing it on a website, by offering it as a hard copy for a fee which reflects reasonable reproduction cost, or in some other manner determined by the Authority.

(j) In addition to providing for an annual audit under subsection (i) of this section, the Authority shall make available to the public, at least on a quarterly basis, the amount of the payment made to each tenant and landlord, along with a description of the property related to the payment and the reason for the payment.

(k) If the Delaware Manufactured Home Owner Attorney Fund ceases to exist, the funds held at the time of dissolution must be liquidated on a per capita basis to tenants of rented lots in manufactured home communities in Delaware who have occupied the lots for at least the 12 months immediately before the time of the dissolution.

(74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1; 77 Del. Laws, c. 238, §§ 2-20; 79 Del. Laws, c. 330, § 1; 82 Del. Laws, c. 38, § 35; 82 Del. Laws, c. 62, § 3; 82 Del. Laws, c. 141, §§ 22, 25.)

## § 7043 Relocation expenses; payments for nonrelocatable homes [Effective Dec. 10, 2019].

(a) If a tenant is required to relocate due to a change in use or conversion of the land in a manufactured home community under § 7024(b) of this title and complies with the requirements of this section, the tenant is entitled tothe maximum relocation payment, established by the Board, from the Trust Fund, regardless of destination, including to property that is not in a manufactured home community or that is located in another state.

(b) The amount of a relocation payment determined under subsection (a) of this section is final and may not be appealed.

(c) A tenant is not entitled to compensation for relocation under subsection (a) of this section if any of the following apply:

(1) The landlord moves the tenant's manufactured home by mutual consent to another lot in the manufactured home community or to another manufactured home community at the landlord's expense.

(2) The tenant is vacating the manufactured home community and so informed the landlord before notice of the change in use was given.

(3) The tenant abandons the manufactured home under subsection (g) of this section.

(4) The tenant has failed to pay the tenant's share of the Trust Fund assessment during the course of the tenancy.

(d) Compensation for nonrelocatable homes.

(1) A tenant is entitled to compensation from the Trust Fund for the tenant's manufactured home if the home, which is on a lot subject to a change in use of land, cannot be relocated. The Board shall establish criteria for determining whether a home can or cannot be relocated. The criteria must include all of the following:

a. Availability of a replacement home site.

b. Feasibility of physical relocation.

(2) If the Board determines that a manufactured home cannot be relocated under paragraph (d)(1) of this section, the Board shall provide compensation to the tenant. The amount of compensation, as determined by a Board-approved, certified manufactured home appraiser, is the fair market value of the home as sited and any existing appurtenances, but excludes the value of the underlying land. However, the amount of compensation may not exceed an amount set by the Board and which may be adjusted from time to time by the Board, to be paid in exchange for the title of the nonrelocatable manufactured home. Prior to receiving payment for a nonrelocatable home, the tenant must deliver to the Board the current title to the home duly endorsed by the owner or owners of record, valid releases of all liens shown on the title, and a tax release. The Board shall then relinquish the title to the landlord to facilitate the removal or disposal of the home from the manufactured home community. For the purpose of compensation to the landlord under § 7044 of this title, a home that cannot be relocated is deemed abandoned. The determination of the Board as to the amount of compensation is final and may not be appealed.

(e) Except as provided for abandonment under subsection (g) of this section, in order to obtain payment from the Trust Fund for the relocation of a manufactured home, a tenant must submit to the Authority, with a copy to the landlord, an application for payment which includes all of the following:

(1) A copy of the notice of termination or nonrenewal of the rental agreement due to change in use of land, under § 7024(b)(1) of this title.

(2) A contract with a licensed moving or towing contractor for the moving expenses for the manufactured home.

(f) The Authority shall approve or reject payment to a moving or towing contractor within 30 days after receipt of the information required by this section, and forward a copy of the approval or rejection to the tenant, with a voucher for payment if payment is approved.

(g) In lieu of the procedure under subsection (a) of this section, a tenant may abandon the manufactured home in the manufactured home community. A tenant must receive a payment from the Trust Fund for the abandoned manufactured home. Before collecting a payment, a tenant shall deliver to the Authority a current State of Delaware title to the manufactured home duly endorsed by the owner of record, a valid release of all liens shown on the title, and a tax release. The amount of the payment shall be set by the Authority. The Authority's determination of the amount of the payment is final and may not be appealed.

(74 Del. Laws, c. 35, § 2; 74 Del. Laws, c. 147, § 8; 79 Del. Laws, c. 151, § 2; 82 Del. Laws, c. 38, § 36.)

## § 7044 Payment of funds to landlord for removal or disposal of abandoned homes [Effective Dec. 10, 2019].

(a) A landlord is entitled to receive from the Trust Fund payment in an amount determined by the Board to be sufficient to remove or dispose, or both, a non-relocatable or abandoned manufactured home under paragraphs § 7043(d) and (g) of this title.

(b) Payment for removal or disposal, or both, of a manufactured home under subsection (a) of this section must be authorized by the Authority and made in the form of a voucher issued to the Division of Revenue of the Department of Finance, directing the Division to issue a check in a designated amount to the landlord.

(c) If the Trust Fund does not have sufficient moneys to make a payment to a landlord under this section, the Authority shall issue a written promissory note to the landlord for funds due and owing. Promissory notes may be redeemed in order of issuance of the notes as additional moneys come into the Trust Fund.

(d) If a landlord realizes a profit from the removal or disposal, or both, of a manufactured home, the landlord shall reimburse the Trust Fund for any profit gained by the landlord pertaining to that home.

(e) A landlord may not receive payment from the Trust Fund if the landlord has failed to pay the landlord's share of the total Trust Fund assessment during the course of tenancies or has failed to remit the tenant's share as required under § 7042(g)(2) of this title.

(f) It is a class A misdemeanor for a landlord or a landlord's agent to file a notice, statement, or other document required under this section which is false or contains a material misstatement of fact.

(74 Del. Laws, c. 35, § 2; 74 Del. Laws, c. 147, §§ 5, 9; 82 Del. Laws, c. 38, § 37.)

## § 7045 Payment of funds to tenants [Effective Dec. 10, 2019].

(a) When a payment to a tenant is authorized by the Authority, payment must be made in the form of a voucher issued to the Division of Revenue of the Department of Finance, directing the Division to issue a check in a designated amount to the named tenant.

(b) If the Trust Fund does not have sufficient moneys to make a payment to a tenant under this section, the Authority shall issue a written promissory note to the tenant for funds due and owing. A promissory note may be redeemed in order of issuance of the notes as additional moneys come into the Trust Fund.

(c) It is a class A misdemeanor for a tenant or a tenant's agent to file a notice, statement, or other document required under this section which is false or contains a material misstatement of fact.

(74 Del. Laws, c. 35, § 2; 74 Del. Laws, c. 147, §§ 5, 9; 82 Del. Laws, c. 38, § 38.)

## § 7046 Delaware Manufactured Home Owner Attorney Fund [Effective Dec. 11, 2019].

(a) The Delaware Manufactured Home Owner Attorney Fund is established through funding provided under § 7042 of this title to provide legal representation and advocacy for manufactured home owners in disputes with community owners.

(b) The Department of Justice must enter into a contract, under the requirements of subchapter VI, Chapter 69 of Title 29, for a person to assist and represent manufactured home owners in disputes with community owners with matters that include all of the following:

(1) Providing educational materials and presentations for manufactured home owners on their rights as manufactured home owners.

(2) Forming a home owners association.

(3) Defending an eviction.

(4) Enforcing a breach of a lease agreement by a community owner.

(5) Remedying the failure of a community owner to maintain communities in a manner consistent with local, state, and federal health and safety rules, regulations, and laws.

(6) Challenging a potentially unenforceable term in a lease agreement.

(7) Challenging a potentially unenforceable community rule.

(8) Challenging a rent increase under subchapter III of this chapter, if all of the following apply:

a. The proposed rent increase is 3% or higher plus the CPI-U as defined in § 7052 of this title..

b. The challenge is requested by either of the following:

1. The homeowners association that represents 25% or more of the homeowners.

2. A simple majority or more of the homeowners who received notice of the proposed rent increase under § 7043 of this title, calculated based on 1 vote for each home that received notice. (c) Not less than quarterly, the Authority shall issue a voucher to the Division of Revenue directing the Division of Revenue to issue a check to the Department of Justice in the amount of the assessments collected under § 7042(g)(1)c. of this title.

(c) The Department of Justice shall file an annual report with the General Assembly October 1 of each year that shall provide all of the following information as of the end of the prior fiscal year:

(1) The amount in the Attorney Fund.

(2) The amount that was spent in the previous year.

(3) The number of cases the contracted attorney worked on in the previous year.

(4) The number of manufactured home owners who were represented by the contracted attorney in the previous year.

(82 Del. Laws, c. 62, § 4.)

## Subchapter VI

## Rent Increase Justification [Effective Dec. 10, 2019]

### § 7050 Purpose [For application of this section, see 79 Del. Laws, c. 304, § 7] [Effective Dec. 10, 2019].

Manufactured housing has become a vital source of affordable housing in Delaware, particularly as a homeownership opportunity for low-income households who otherwise would likely not be able to move into homeownership. In recent years, Delaware has experienced a difficult economic climate which has resulted in a crisis in affordable housing availability. Additionally, manufactured homeowners make substantial and sizeable investments in their manufactured homes. Once a manufactured home is situated on a manufactured housing community site, the difficulty and cost of moving the home gives the community owner disproportionate power in establishing rental rates. The continuing possibility of unreasonable space rental increases in manufactured home communities threatens to diminish the value of manufactured homeowners' investments. Through this subchapter, the General Assembly seeks to protect the substantial investment made by manufactured homeowners, and enable the State to benefit from the availability of affordable housing for lower-income citizens, without the need for additional state funding. The General Assembly also recognizes the property and other rights of manufactured home community owners, and seeks to provide manufactured home community owners with a fair return on their investment. Therefore, the purpose of this subchapter is to accommodate the conflicting interests of protecting manufactured homeowners, residents, and tenants from unreasonable and burdensome space rental increases while simultaneously providing for the need of manufactured home community owners to receive a just, reasonable, and fair return on their property.

(79 Del. Laws, c. 63, § 1; 82 Del. Laws, c. 38, § 40.)

### § 7051 Rent increase; notice [Effective Dec. 10, 2019].

A landlord may not increase a tenant's lot rent more than once during any 12-month period, regardless of the term of the tenancy or the term of the rental agreement.

(82 Del. Laws, c. 38, § 41.)

### § 7052 Rent justification [For application of this section, see 79 Del. Laws, c. 304, § 7] [Effective Dec. 10, 2019].

(a) A community owner may raise a homeowner's rent for any and all 12-month periods governed by the rental agreement in an amount greater than the average annual increase of the Consumer Price Index For All Urban Consumers in the Philadelphia-Wilmington-

Atlantic City area (CPI-U'') for the most recently available preceding 36-month period, provided the community owner can demonstrate the increase is justified for all of the following conditions:

(1) The community owner, during the preceding 12-month period, has not been found in violation of any provision of this chapter that threatens the health or safety of the residents, visitors, or guests that persists for more than 15 days, beginning from the day the community owner received notice of such violation.

(2) The proposed rent increase is directly related to operating, maintaining, or improving the manufactured home community, and justified by 1 or more factors listed under subsection (c) of this section.

(b) The Delaware State Housing Authority shall monitor the CPI-U and report to the Authority findings and recommendations relevant to the cost of rent in manufactured home communities in Delaware.

(c) One or more of the following factors may justify the increase of rent in an amount greater than the CPI-U:

(1) The completion and cost of any capital improvements or rehabilitation work in the manufactured home community, as distinguished from ordinary repair, replacement, and maintenance.

(2) Changes in property taxes or other taxes within the manufactured home community.

(3) Changes in utility charges within the manufactured home community.

(4) Changes in insurance costs and financing associated with the manufactured home community.

(5) Changes in reasonable operating and maintenance expenses relating to the manufactured home community including costs for water service; sewer service; septic service; water disposal; trash collection; and employees.

(6) The need for repairs caused by circumstances other than ordinary wear and tear in the manufactured home community.

(7) Market rent. — For purposes of this section, market rent'' means that rent which would result from market forces absent an unequal bargaining position between the community owner and the homeowners. In determining market rent relevant considerations include rents charged to recent new homeowners entering the subject manufactured home community and/or by comparable manufactured home communities. To be comparable, a manufactured home community must be within the competitive area and must offer similar facilities, services, amenities, and management.

(8) The amount of rental assistance provided by the community owner to the homeowners under § 7022 of this title.

(d) A community owner shall not incorporate the cost of a civil penalty, criminal fine, or litigation-related costs for rent-related proceedings into rent charged under any circumstance. A community owner also shall not utilize as justification for any future rental increase the cost of capital improvements or rehabilitation work, once that cost has been fully recovered by rental increases that were incorporated into a prior rental increase in excess of CPI-U, where the prior rental increase was properly implemented under this subchapter.

(79 Del. Laws, c. 63, § 1; 79 Del. Laws, c. 304, §§ 1, 6; 82 Del. Laws, c. 38, § 42.)

### § 7053 Rent increase dispute resolution [For application of this section, see 79 Del. Laws, c. 304, § 7, and 80 Del. Laws, c. 229, § 3] [Effective Dec. 10, 2019].

(a) (1) A community owner shall give written notice to each affected homeowner and to the homeowners' association, if one exists, and to the Delaware Manufactured Home Relocation Authority ( "Authority" ), at least 90 days prior to any increase in rent. The notice shall identify all affected homeowners by lot number, name, group, or phase. If the affected homeowners are not identified by name, the community owner shall make the names and addresses available to any affected homeowner, homeowners' association, and the Authority, upon request.

(2) The Authority must maintain a form final meeting notice that includes all of the following:

a. The deadline to request arbitration under subsection (f) of this section.

b. A statement that an informal meeting under subsection (e) of this section does not affect, in any way, the date by which arbitration must be requested under subsection (f) of this section.

(3) The written notice under this subsection (a) must contain all of the following:

a. The approved date, time, and place for the final meeting required under subsection (b) of this section.

b. The form language maintained by the Authority under paragraph (a)(2) of this section.

(b) If the proposed rent increase exceeds the CPI-U, the Authority shall approve a final meeting between the community owner and the affected homeowners, and the homeowners' association, if one exists, to discuss the reasons for the proposed increase. The final meeting must be held within 30 days from the mailing of the notice of the rent increase.

(1) The community owner proposing the rent increase shall recommend to the Authority, in writing, a date, time, and place of the final meeting and provide a copy of this recommendation to the homeowner's association, if one exists.

(2) The Authority shall approve the community owner's recommendation if it determines that the date, time, and place are reasonable.

(3) The community owner shall include the approved date, time, and place for the final meeting in the notice required under subsection (a) of this section.

(c) At or before the final meeting the community owner shall, in good faith, disclose in writing all of the material factors resulting in the decision to increase the rent. When market rent is a factor used by the community owner, the community owner shall provide a range of rental rates from low to high, and when relevant the mean and median; this disclosure must include all of the following:

(1) Whether comparable rents were determined at arm's length, each case in which the community owner or related party has an ownership interest in the comparable lot/community.

(2) The time relevance of the data.

(3) The community owner shall disclose financial and other pertinent documents and information supporting the reasons for the rent increase.

(d) The community owner and at least 1 affected homeowner or the homeowners' association may agree to extend or continue the final meeting required under this section by doing all of the following:

(1) The community owner and the homeowner or homeowner's association must sign a written document containing a specific date for the rescheduled final meeting.

(2) Within 2 business days of signing the agreement to continue or extend, the community owner shall notify the Authority of the agreement by forwarding the signed agreement to the Authority.

(e) At the community owner's election, the community owner may schedule 1 or more informal meetings, before or after the final meeting, to discuss the proposed rent increase.

(f) After the final meeting, any affected homeowner who has not already accepted the proposed increase, or the homeowners' association on the behalf of 1 or more affected homeowners who have not already accepted the proposed increase may, within 30 days from the conclusion of the final meeting, petition the Authority to appoint a qualified arbitrator to conduct nonbinding arbitration proceedings. If the thirtieth day is a Saturday, Sunday, legal holiday, or other day on which the office of the Authority is closed, the 30-day period shall run until the end of the next day on which the office of the Authority is open. Only if a petition is timely filed, the Authority shall select an arbitrator who is a member of the Delaware Bar with appropriate training in alternative dispute resolution. The Authority may select an arbitrator from the list of arbitrators maintained by the Superior Court of the State, or by soliciting applicants for a list maintained by the Authority, or through another method which the Authority, in its discretion, has determined will be sufficient to result in the selection of an appropriate arbitrator. The tenants and the landlord must each pay $250 to the Delaware Manufactured Home Relocation Trust Fund to be applied to the arbitrator's fee. The Authority shall pay all direct arbitration costs in excess of the $500 collected from the homeowners and community owner. All other costs shall be the responsibility of the respective parties. The arbitration must be held within 60 days from the date of the petition.

(g) The Delaware Uniform Rules of Evidence shall be used as a guide by the arbitrator for admissibility of evidence submitted at the arbitration hearing.

(h) Unless waived by all parties, testimony will be under oath or affirmation, administered by the arbitrator.

(i) Testimony shall be transcribed and shall be considered a written record.

(j) The arbitrator will render a decision employing the standards under § 7052 of this title.

(k) The arbitrator will render a written decision within 15 days of the conclusion of the arbitration hearing.

(l) The homeowners will be subject to the rent increase as notified; however, if the rent increase is not approved through the process provided in this section, the community owners shall rebate the increase.

(79 Del. Laws, c. 63, § 1; 79 Del. Laws, c. 304, §§ 2-4; 80 Del. Laws, c. 229, § 1; 82 Del. Laws, c. 38, § 43.)

## § 7054 Appeal [For application of this section, see 79 Del. Laws, c. 304, § 7 and 80 Del. Laws, c. 229, § 3] [Effective Dec. 10, 2019].

The community owner, the homeowners' association, or any affected homeowner may appeal the decision of the arbitrator within 30 days of the date of issuance of the arbitrator's decision. The appeal shall be to the Superior Court in the county of the affected community. The appeal shall be on the record and the Court shall address written and/or oral arguments of the parties as to whether the record created in the arbitration is sufficient justification for the arbitrator's decisions and whether those decisions are free from legal error.

(79 Del. Laws, c. 63, § 1; 79 Del. Laws, c. 304, § 5; 80 Del. Laws, c. 229, § 2; 82 Del. Laws, c. 38, § 44.)

## § 7055 Penalties [For application of this section, see 79 Del. Laws, c. 304, § 7] [Effective Dec. 10, 2019].

A community owner who raises a homeowner's rent more than the annual average increase of the CPI-U for the preceding 36-month period without complying with this subchapter, must immediately reduce the rent to the amount in effect before the unauthorized increase and rebate the unauthorized rent collected to the homeowners with interest. The Department of Justice shall have authority over this section.

(79 Del. Laws, c. 63, § 1; 82 Del. Laws, c. 38, § 45.)

## § 7056 Exemption [For application of this section, see 79 Del. Laws, c. 304, § 7] [Effective Dec. 10, 2019].

(a) Resident-owned communities shall be exempt from the provisions of this subchapter.

(b) Any deed subject to lease community shall be exempt from the provisions of this subchapter. A deed subject to lease community is a community wherein each homeowner has a deed subject to lease recorded with the recorder of deeds, has a long-term lease of at least 40 years' duration where the lease includes specific rent increases, and wherein each home is of modular construction.

(79 Del. Laws, c. 63, § 1; 82 Del. Laws, c. 38, § 46.)

## Subchapter VII

## Tenant's Receivership [Effective Dec. 10, 2019]

### § 7061 Petition for receivership [Effective Dec. 10, 2019].

Any tenant or group of tenants may petition for the establishment of a receivership in a Justice of the Peace Court upon the grounds that there has existed for 5 days or more after notice to the landlord of any the following:

(1) If the rental agreement or any state or local statute, code, regulation, or ordinance places a duty upon the landlord to so provide, a lack of heat, or of running water, or of light, or of electricity, or of adequate sewage facilities.

(2) Any other conditions imminently dangerous to the life, health, or safety of the tenant.

(66 Del. Laws, c. 268, § 2; 82 Del. Laws, c. 38, § 48.)

### § 7062 Necessary parties defendant [Effective Dec. 10, 2019].

(a) Petitioners shall join all of the following as defendants:

(1) All parties duly disclosed to any of them in accordance with § 7066 of this title.

(2) All parties whose interest in the property is a matter of public record, and whose interest in the property is capable of being protected in this proceeding.

(b) Petitioners shall not be prejudiced by a failure to join any other interested parties.

(66 Del. Laws, c. 268, § 2; 82 Del. Laws, c. 38, § 49.)

### § 7063 Defenses [Effective Dec. 10, 2019].

It shall be a sufficient defense to this proceeding if any defendant of record establishes any of the following:

(1) The condition or conditions described in the petition do not exist at the time of trial.

(2) The condition or conditions alleged in the petition have been caused by the wilful or grossly negligent acts of 1 or more of the petitioning tenants or members of a petitioning tenant's family or by persons on the premises with the consent of a petitioning tenant.

(3) Such condition or conditions would have been corrected, were it not for the refusal by any petitioner to allow reasonable access.

(66 Del. Laws, c. 268, § 2; 82 Del. Laws, c. 38, § 50.)

### § 7064 Stay of judgment by defendant [Effective Dec. 10, 2019].

(a) If, after a trial, the court shall determine that the petition should be granted, the court shall immediately enter judgment thereon and appoint a receiver as authorized herein; provided however, prior to the entry of judgment and appointment of a receiver, the owner or any mortgagee or the lienor of record or other person having an interest in the property may apply to the court to be permitted to remove or remedy the conditions specified in the petition. If such person demonstrates the ability to perform promptly the necessary work and posts security for the performance thereof within the time, and in the amount and manner, deemed necessary by the court, then the court may stay judgment and issue an order permitting such person to perform the work within a time fixed by the court and requiring such person to report to the court periodically on the progress of the work. The court shall retain jurisdiction over the matter until the work is completed.

(b) If, after the issuance of an order under subsection (a) of this section, but before the time fixed in such order for the completion of the work prescribed therein, there is reason to believe that the work will not be completed pursuant to the court's order or that the person permitted to do the same is not proceeding with due diligence, the court or the petitioners, upon notice to all parties to the proceeding, may move that a hearing be held to determine whether judgment should be rendered immediately as provided in subsection (c) of this section.

(c) (1) If, upon a hearing authorized in subsection (b) of this section, the court shall determine that such party is not proceeding with due diligence, or upon the actual failure of such person to complete the work in accordance with the provisions of the order, the court shall appoint a receiver as authorized herein.

(2) Such judgment shall direct the receiver to apply the security posted to executing the powers and duties as described herein.

(3) In the event that the amount of such security should be insufficient to accomplish the above objectives, such judgment shall direct the receiver to collect the rents, profits and issues to the extent of the deficiency. In the event that the security should exceed the amount necessary to accomplish the above objectives, such judgment shall direct the receiver to return the excess to the person posting the security.

(66 Del. Laws, c. 268, § 2; 82 Del. Laws, c. 38, § 51.)

### § 7065 Receivership procedures [Effective Dec. 10, 2019].

(a) The receiver shall be the Division of Consumer Protection of this State, or its successor agency.

(b) (1) Upon its appointment, the receiver shall make within 15 days an independent finding whether or not there is proper cause shown for the need for rent to be paid to it, and for the employment of a private contractor to correct the condition complained of under § 7061 of this title and found by the court to exist.

(2) If the receiver shall make such a finding, it shall file a copy of the finding with the Recorder of Deeds of the county where the property lies and it shall be a lien on that property where the violation complained of exists.

(3) Upon completion of the aforesaid contractual work and full payment to the contractor, the receiver shall file a certification of such with the Recorder of Deeds of the appropriate county, and this filing shall release the aforesaid lien.

(4) The receiver shall forthwith give notice to all lienholders of record.

(5) If the receiver shall make a finding at such time or any other time that for any reason the appointment of the receiver is not appropriate, it shall be discharged upon notification to the court and all interested parties, and shall make legal distribution of any funds in its possession.

(66 Del. Laws, c. 268, § 2; 69 Del. Laws, c. 291, § 98(c); 82 Del. Laws, c. 38, § 52.)

## § 7066 Powers and duties of receiver [Effective Dec. 10, 2019].

The receiver shall have all the powers and duties accorded a receiver foreclosing a mortgage on real property, and all other powers and duties deemed necessary by the court. Such powers and duties include collecting and using all rents and profits of the property, prior to and despite any assignment of rent, for any of the following purposes:

(1) Correcting the condition or conditions alleged in the petition.

(2) Materially complying with all applicable provisions of any state or local statute, code, regulation, or ordinance governing the maintenance, construction, use, or appearance of the surrounding grounds.

(3) Paying all expenses reasonably necessary for the proper operation and management of the property including insurance, mortgage payments, taxes and assessments, and fees for the services of the receiver and any agent the receiver hires.

(4) Compensating the tenants for whatever deprivation of their rental agreement rights resulted from the condition or conditions alleged in the petition.

(5) Paying the costs of the receivership proceeding.

(66 Del. Laws, c. 268, § 2; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 38, § 53.)

## § 7067 Discharge of receiver; costs [Effective Dec. 10, 2019].

(a) In addition to those situations described under § 7065 of this title, the receiver may also be discharged when all of the following have occurred:

(1) The condition or conditions alleged in the petition have been remedied.

(2) The property materially complies with all applicable provisions of any state or local statute, code, regulation, or ordinance governing the maintenance, construction, use, or appearance of the surrounding grounds.

(3) The costs of the above work and any other costs as authorized herein have been paid or reimbursed from the rents and profits of the property.

(4) The surplus money, if any, has been paid over to the owner.

(b) Upon subsections (a)(1) and (a)(2) of this section being satisfied, the owner, mortgagee, or any lienor may apply for the discharge of the receiver after paying to the latter all moneys expended by that receiver and all other costs which have not been paid or reimbursed from the rents and profits of the property.

(c) If the court determines that future profits of the property will not cover the cost of satisfying subsections (a)(1) and (a)(2) of this section, the court may discharge the receiver and order such action as would be appropriate in the situation, including but not limited to terminating the rental agreement; and may order the vacation of the mobile home park within a specified time. In no case shall the court permit repairs which cannot be paid out of the future profits of the property.

(66 Del. Laws, c. 268, § 2; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 38, § 54.)

# Part III
# Residential Landlord-Tenant Code

## Chapter 57
## Summary Possession

### § 5701 Jurisdiction and venue.

An action for summary possession in accordance with § 5702 of this title shall be maintained in the Justice of the Peace Court which hears civil cases in the county in which the premises or commercial rental unit is located. In the event that more than 1 Justice of the Peace Court in a county hears civil cases, then an action shall be maintained in the Justice of the Peace Court that possesses territorial jurisdiction over the area in which the premises or commercial unit is located. For purposes of this chapter, the term "rental agreement" shall include a lease for a commercial rental unit.

(70 Del. Laws, c. 513, § 4; 76 Del. Laws, c. 250, § 1.)

### § 5701A Establishing territorial jurisdiction.

In any county in which more than 1 Justice of the Peace Court location has been designated to hear civil cases, each court location shall have a geographical area assigned to it for the purpose of establishing jurisdiction over actions for summary possession. Each court location shall be located within its given territory. Pursuant to § 5701 of this title, any action for summary possession involving a residential or commercial unit within a given territory shall be maintained at the Justice of the Peace Court which has jurisdiction over the given territory. Designation of the boundaries between territories shall be accomplished by court rule. In so doing, the Court may take into account the resources of each Justice of the Peace Court location; how these resources may be utilized best in serving the public good; convenience to the public; and population and demographic information, both current and projected.

(76 Del. Laws, c. 250, § 2.)

### § 5702 Grounds for summary proceeding.

Unless otherwise agreed in a written rental agreement, an action for summary possession may be maintained under this chapter because:

(1) The tenant unlawfully continues in possession of any part of the premises after the expiration of the rental agreement without the permission of the landlord or, where a new tenant is entitled to possession, without the permission of the new tenant;

(2) The tenant has wrongfully failed to pay the agreed rent;

(3) The tenant has wrongfully deducted money from the agreed rent;

(4) The tenant has breached a lawful obligation relating to the tenant's use of the premises;

(5) The tenant, employee, servant or agent of the landlord holds over for more than 15 days after dismissal when the housing is supplied by the landlord as part of the compensation for labor or services;

(6) The tenant holds over for more than 5 days after the property has been duly sold upon the foreclosure of a mortgage and the title has been duly perfected;

(7) The rightful tenant of the rental unit has been wrongfully ousted;

(8) The tenant refuses to yield possession of the rental unit rendered partially or wholly unusable by fire or casualty, and the landlord requires possession for the purpose of effecting repairs of the damage;

(9) The tenant is convicted of a class A misdemeanor or any felony during the term of tenancy which caused or threatened to cause irreparable harm to any person or property;

(10) A rental agreement for a commercial rental unit provides grounds for an action for summary possession to be maintained;

(11) Or, if, and only if, it pertains to manufactured home lots, for any of the grounds set forth in the Manufactured Home Owners and Community Owners Act, as amended; or

(12) The tenant who is the sole tenant under the rental agreement has died and become the deceased sole tenant under the residential rental agreement.

(70 Del. Laws, c. 513, § 4; 74 Del. Laws, c. 35, § 3; 79 Del. Laws, c. 65, § 3.)

### § 5703 Who may maintain proceeding.

The proceeding may be initiated by:

(1) The landlord;

(2) The owner;

(3) The tenant who has been wrongfully put out or kept out;

(4) The next tenant of the premises, whose term has begun; or

(5) The tenant.

(70 Del. Laws, c. 513, § 4.)

## § 5704 Commencement of action and notice of complaint.

(a) The proceeding shall be commenced by filing a complaint for possession with the court.

(b) Upon commencement of an action, the court shall issue the process specified in the praecipe and shall cause service of the complaint on the defendant, together with a notice stating the time and place of the hearing. The notice shall further state that if the defendant shall fail at such time to appear and defend against the complaint, defendant may be precluded from afterwards raising any defense or a claim based on such defense in any other proceeding or action.

(c) The party requesting the issuance of process may file a motion for the appointment of a special process server, consistent with Justice of the Peace Court Civil Rules. The party requesting the appointment of a special process server may prepare a form of order for signature by the clerk of court under the seal of the court. Blank forms for a motion for the appointment of a special process server and for an order appointing such a special process server shall be provided by the clerk of the court on request of the party.

(70 Del. Laws, c. 513, § 4.)

## § 5705 Service and filing of notice.

(a) The notice of hearing and the complaint shall be served at least 5 days and not more than 30 days before the time at which the complaint is to be heard.

(b) The notice and complaint, together with proof of service thereof, shall be filed with the court before which the complaint is to be heard prior to the hearing, and in no event later than 5 days after service. If service has been made by certified or registered mail, the return receipt, signed, refused or unclaimed, shall be proof of service.

(c) Service of the notice and complaint may be made in any manner consistent with either § 5704 or § 5706 of this title.

(70 Del. Laws, c. 513, § 4.)

## § 5706 Manner of service.

(a) Service of the notice of hearing and complaint shall be made in the same manner as personal service of a summons in an action.

(b) If service cannot be made in such manner, it shall be made by leaving a copy of the notice and complaint personally with a person of suitable age and discretion who resides or is employed in the rental unit.

(c) If no such person can be found after a reasonable effort, service may be made:

(1) Upon a natural person by affixing a copy of the notice and complaint upon a conspicuous part of the rental unit within 1 day thereafter, and by sending by either certified mail or first class mail with certificate of mailing, using United States Postal Service Form 3817 or its successor, an additional copy of each document to the rental unit and to any other address known to the person seeking possession as reasonably chosen to give actual notice to the defendant; or

(2) If defendant is an artificial entity, pursuant to Supreme Court Rule 57, by sending by certified mail or by sending by first class mail with certificate of mailing, using United States Postal Service Form 3817 or its successor, within 1 day after affixation, additional copies of each document to the rental unit and to the principal place of business of such defendant, if known, or to any other place known to the party seeking possession as reasonably chosen to effect actual notice.

(d) Service pursuant to this section shall be considered actual or statutory notice.

(70 Del. Laws, c. 513, § 4.)

## § 5707 Contents of complaint generally.

The complaint shall:

(1) State the interest of the plaintiff in the rental unit from which removal is sought;

(2) State the defendant's interest in the rental unit and defendant's relationship to the petitioner with regard thereto;

(3) Describe the rental unit from which removal is sought;

(4) State the facts upon which the proceeding is based and attach a copy of any written notice of the basis of the claim as an exhibit to the complaint; and

(5) State the relief sought which may include a judgment for rent due if the notice of complaint contains a conspicuous notice that such demand has been made.

(70 Del. Laws, c. 513, § 4.)

## § 5708 Additional contents of certain complaints.

If possession of the rental unit is sought on the grounds that the tenant has violated or failed to observe a lawful obligation in relation to tenant's use and enjoyment of the rental unit, the complaint shall, in addition to the requirements of the foregoing section:

(1) Set forth the rule or provision of the rental agreement allegedly breached, together with the date the rule was made known to the tenant and a copy of the rule or provision as initially provided to the tenant and the manner in which such rule or provision was made known to the tenant;

(2) Allege with specificity the facts constituting a breach of the rule or provision of the rental agreement and that notice or warning as required by law was given to the tenant;

(3) Set forth the facts constituting a continued or recurrent violation of the rule or provision of the rental agreement;

(4) Set forth the purpose served by the rule or provision of the rental agreement allegedly breached; and

(5) Allege that where the rule is not a part of the rental agreement or any other agreement of the landlord and tenant at the time of the formation of the rental agreement, that it does not work a substantial modification of the tenant's bargain or, if it does, that the tenant consented knowingly in writing to the rule.

(70 Del. Laws, c. 513, § 4.)

## § 5709 Answer.

At the time when the petition is to be heard, the defendant or any person in possession or claiming possession of the rental unit may answer orally or in writing. If the answer is oral, the substance thereof shall be endorsed on the complaint. The answer may contain any legal or equitable defense or counter-claim, not to exceed the jurisdiction of the court.

(70 Del. Laws, c. 513, § 4.)

## § 5710 Trial.

Where triable issues of fact are raised, they shall be tried by the court. At the time when an issue is joined, the court, at the application of either party and upon proof to its satisfaction by affidavit or orally that an adjournment is necessary to enable the applicant to procure necessary witnesses or evidence or by consent of all the parties who appear, may adjourn the trial, but not more than 10 days, except by consent of all parties.

(70 Del. Laws, c. 513, § 4.)

## § 5711 Judgment.

(a) The court shall enter a final judgment determining the rights of the parties. The judgment shall award to the successful party the costs of the proceeding.

(b) The judgment shall not bar an action, proceeding or counterclaim commenced or interposed within 60 days of entry of judgment for affirmative equitable relief which was not sought by counterclaim in the proceeding because of the limited jurisdiction of the court.

(c) If the proceeding is founded upon an allegation of forcible entry or forcible holding out, the court may award to the successful party a fixed sum as damages, in addition to the costs.

(70 Del. Laws, c. 513, § 4.)

## § 5712 Default judgment.

(a) No judgment for the plaintiff shall be entered unless the court is satisfied, upon competent proof, that the defendant has received actual notice of the proceeding or, having abandoned the rental unit, cannot be found within the jurisdiction of the court after the exercise of reasonable diligence. Posting and first-class mail, as evidenced by a certificate of mailing, is acceptable as actual notice for the purposes of a default judgment.

(b) A party may, within 10 days of the entry of a default judgment or a nonsuit, file a motion with the court to vacate the judgment and if, after a hearing on the motion, the court finds that the party has satisfied the requirements of Justices of the Peace Civil Rule 60(b), it shall grant the motion and permit the parties to elect a trial before a single judge or a jury trial.

(70 Del. Laws, c. 513, § 4.)

## § 5713 Jury trials.

(a) In any civil action commenced pursuant to this chapter, the plaintiff may demand a trial by jury at the time the action is commenced and the defendant may demand a trial by jury within 10 days after being served. Upon receiving a timely demand, the justice shall appoint 6 impartial persons of the county in which the action was commenced to try the cause. In making such appointments, the justice shall appoint such persons from the jury list being used at time of appointment by the Superior Court in the county where the action was commenced.

(b) The jury shall be sworn or affirmed that they will "faithfully and impartially try the cause pending between the said ................. plaintiff and ................. defendant and make a true and just report thereupon according to the evidence" and shall hear the allegations of the parties and their proofs. If either party fails to appear before the jury, they may proceed in that party's absence. When the jury or any 4 of them agree, they shall make a report under their hands and return the same to the justice who shall give judgment according to the report.

(c) If any juror appointed fails to appear or serve throughout the trial the justice may supply a replacement by appointing and qualifying another, but there shall be no trial by jury if the defendant has not appeared.

(d) In all other cases, the justice shall hear the case and give judgment according to the right of the matter and the law of the land.

(e) A Chief Magistrate shall have the authority to designate courts in each county which can accommodate a jury trial.

(70 Del. Laws, c. 513, § 4.)

## § 5714 Compelling attendance of jurors.

(a) In a proceeding under this chapter, the justice may require the attendance of the jurors the justice appoints, and may issue a summons under hand and seal to a constable for summoning them to appear before the court.

(b) If any juror duly summoned fails to appear as required, or to be qualified and serve throughout the trial, the juror shall, unless the juror shows to the justice a sufficient excuse, be guilty of contempt and shall be fined $50 which shall be levied with costs by distress and sale of the juror's goods and chattels by virtue of a warrant by the justice.

(c) The warrant shall be directed to a constable in the following manner:

................. County, ss. The State of Delaware.

To any constable, greeting:

Whereas, ................. of ................. has been adjudged by ................., 1 of our justices of the peace, to be guilty of a contempt in making default after due summons as a juror in a case pending before said justice and has been ordered to pay a fine of $50 in pursuance of the act of assembly in such case provided, and

Whereas, the said ................. has neglected to pay the said sum, we therefore command you to levy the said sum of $50 with ................. costs and your costs hereon by distress and sale of the goods and chattels of the said ................. upon due notice given as upon other execution process.

Witness the hand and seal of the said justice the .......... day of 20 ......

(70 Del. Laws, c. 513, § 4.)

## § 5715 Execution of judgment; writ of possession.

(a) Upon rendering a final judgment for plaintiff, but in no case prior to the expiration of the time for the filing of an appeal or motion to vacate or open the judgment, the court shall issue a writ of possession directed to the constable or the sheriff of the county in which the property is located, describing the property and commanding the officer to remove all persons and put the plaintiff into full possession.

(b) The officer to whom the writ of possession is directed and delivered shall give at least 24 hours' notice to the person or persons to be removed and shall execute it between the hours of sunrise and sunset.

MANUFACTURED HOME. If the writ of possession being posted relates to the possession of a rented lot for manufactured housing, under Chapter 70 of this title, and, on or before the date the writ of possession is posted, the tenant has prepaid a per diem storage fee in an amount equivalent to 7 days' rent, then the court, through its officers, may extend the notice period for the removal of the home from the lot, to a maximum period of 7 calendar days from the date of posting. In no event may the tenant inhabit the home after the first 24 hours of the notice period. If the per diem charge above described has been prepaid and the time for removal has been extended, then 7 calendar days after the posting of the writ, the manufactured home may be removed by the landlord. If the period for removal of the home has not been extended by a prepayment of the per diem amount for storage, then 24 hours after the posting of the writ, the home may be removed from the lot by the landlord. In either event, after removal, the home must be stored at the tenant's expense for a period of 30 days before it can be disposed of through further legal action. The tenant may not remove the home from the storage location until the landlord has been reimbursed for any judgment amount and the reasonable cost of removal and storage of the manufactured home.

(c) The plaintiff has the obligation to notify the constable to take the steps necessary to put the plaintiff in full possession.

(d) The issuance of a writ of possession for the removal of a tenant cancels the agreement under which the person removed held the premises and annuls the relationship of landlord and tenant. Plaintiff may recover, by an action for summary possession, any sum of money which was payable at the time when the action for summary possession was commenced and the reasonable value of the use and occupation to the time when a writ of possession was issued and for any period of time with respect to which the agreement does not make any provision for payment of rent, including the time between the issuance of the writ and the landlord's actual recovery of the premises.

(e) If, at the time of the execution of the writ of possession, the tenant fails to remove tenant's property, the landlord shall have the right to and may immediately remove and store such property for a period of 7 days, at tenant's expense, unless the property is a manufactured home and the rental agreement is subject to Chapter 70 of this title, in which case the manufactured home must be stored for a period of 30 days. If, at the end of such period, the tenant has failed to claim said property and to reimburse the landlord for the expense of removal and storage in a reasonable amount, such property and possessions shall be deemed abandoned and may be disposed of by the landlord without further notice or obligation to the tenant. Nothing in this subsection shall be construed to prevent the landlord from suing for both rent and possession at the same hearing.

(1) If there is no appeal from the judgment of summary possession at the time of the execution of the writ of possession and the tenant has failed to remove tenant's property, then the landlord may immediately remove and store such property for a period of 7 days, at tenant's expense, unless the property is a manufactured home and the rental agreement is subject to Chapter 70 of this title, in which case the manufactured home must be stored for a period of 30 days.

(2) If, at the end of such period, the tenant has failed to claim said property and to reimburse the landlord for the expense of removal and storage in a reasonable amount, such property and possessions shall be deemed abandoned and may be disposed of by the landlord without further notice or obligation to the tenant.

(3) All writs of possession where no appeal has been filed must contain the following language:

If you do not remove your property from the premises within 24 hours, then the landlord may immediately remove and store your property for a period of 7 days at your expense, unless the property is a manufactured home and the rental agreement is subject to Chapter 70 of this title, in which case the manufactured home must be stored for a period of 30 days. If you fail to claim your property and reimburse the landlord prior to the expiration of the 7-day period, then the landlord may dispose of your property without any further legal action.

MANUFACTURED HOME. If the writ of possession being posted relates to the possession of a rented lot for manufactured housing, under Chapter 70 of this title, and, on or before the date the writ of possession is posted, the tenant has prepaid a per diem storage fee in an amount equivalent to 7 days' rent, then the court, through its officers, may extend the notice period for the removal of the home from the lot to a maximum period of 7 calendar days from the date of posting. In no event may the tenant inhabit the home after the first 24 hours of the notice period. If the per diem charge above described has been prepaid and the time for removal has been extended, then 7 calendar days after the posting of the writ, the manufactured home may be removed by the landlord. If the period for removal of the home has not been extended by a prepayment of the per diem amount for storage, then 24 hours after the posting of the writ, the home may be removed from the lot by the landlord. In either event, after removal, the home must be stored at the tenant's expense for a period of 30 days before it can be disposed of through further legal action. The tenant may not remove the home from storage location until the landlord has been reimbursed for any judgment amount and the reasonable cost of removal and storage of the manufactured home.

(f) If, at the time of the execution of the writ of possession, an appeal of the judgment of possession has been filed:

(1) If there has been an appeal filed from a judgment of summary possession at the time of the execution of the writ of possession and the tenant has failed to remove property within 24 hours, then the landlord may immediately remove and store such property, at the tenant's expense, for a period of 7 days after the resolution of the appeal, unless the property is a manufactured home and the rental agreement is subject to Chapter 70 of this title, in which case the manufactured home must be stored for a period of 30 days.

(2) If, at the end of such period, the tenant has failed to claim said property and to reimburse the landlord for the expense of removal and storage in a reasonable amount, such property and possessions shall be deemed abandoned and may be disposed of by the landlord without further notice or obligation to the tenant.

(3) All writs of possession, where an appeal has been filed, must contain the following language:

If you do not remove your property from the premises with 24 hours, then the landlord may immediately remove and store your property until 7 days after your appeal has been decided, at your expense. If you fail to claim your property and reimburse the landlord prior to the expiration of the 7-day period, then the landlord may dispose of your property without any further legal action.

MANUFACTURED HOME. If the writ of possession being posted relates to the possession of a rented lot for manufactured housing, under Chapter 70 of this title, and, on or before the date the writ of possession is posted, the tenant has prepaid a per diem storage fee in an amount equivalent to 7 days' rent, then the court, through its officers, may extend the notice period for the removal of the home from the lot to a maximum period of 7 calendar days from the date of posting. In no event may the tenant inhabit the home after the 1st 24 hours of the notice period. If the per diem charge above described has been prepaid and the time for removal has been extended, then 7 calendar days after the posting of the writ, the manufactured home may be removed by the landlord. If the period for removal of the home has not been extended by a prepayment of the per diem amount for storage, then 24 hours after the posting of the writ, the home may be removed from the lot by the landlord. In either event, after removal, the home must be stored at the tenant's expense for a period of 30 days before it can be disposed of through further legal action. The tenant may not remove the home from storage location until the landlord has been reimbursed for any judgment amount and the reasonable cost of removal and storage of the manufactured home.

(g) Nothing in subsection (d) of this section shall prevent the landlord from making a claim for rent due from the tenant under the provisions of the lease. The landlord shall have the duty of exercising diligence in landlord's efforts to re-rent the premises. The landlord shall have the burden of showing the exercise of such diligence. The landlord shall have the right to sue for both rent and possession at the same hearing.

(h) Whenever the plaintiff is put into full possession under this chapter it shall be the duty of the plaintiff, at the time actual repossession occurs, to have the locks to the premises changed if said premises are to be further leased out. Any plaintiff who fails to comply with this subsection shall be liable to any new tenant whose person or property is injured as a result of entry to the premises gained by the dispossessed tenant by use of a key still in their possession which fit the lock to the premises at the time of this tenancy.

(70 Del. Laws, c. 513, § 4.)

## § 5716 Stay of proceedings by tenant; good faith dispute.

When a final judgment is rendered in favor of the plaintiff in a proceeding brought against a tenant for failure to pay rent and the default arose out of a good faith dispute, the tenant may stay all proceedings on such judgment by paying all rent due at the date of the judgment and the costs of the proceeding or by filing with the court an undertaking to the plaintiff, with such assurances as the court shall require, to the effect that defendant will pay such rent and costs within 10 days of the final judgment being rendered for the plaintiff. At the expiration of said period, the court shall issue a warrant of possession unless satisfactory proof of payment is produced by the tenant.

(70 Del. Laws, c. 513, § 4.)

## § 5717 Stay of proceedings on appeal.

(a) With regard to nonjury trials, a party aggrieved by the judgment rendered in such proceeding may request in writing, within 5 days after judgment, a trial de novo before a special court comprised of 3 justices of the peace other than the justice of the peace who presided at the trial, as appointed by the chief magistrate or a designee, which shall render final judgment, by majority vote, on the original complaint within 15 days after such request for a trial de novo. No such request shall stay proceedings on such judgment unless the aggrieved party, at the time of making such request, shall execute and file with the Court an undertaking to the successful party, with such bond or other assurances as may be required by the Court, to the effect that the aggrieved party will pay all costs of such proceedings which may be awarded against that party and abide the order of the Court therein and pay all damages, including rent, justly accruing during the pendency of such proceedings. All further proceedings in execution of the judgment shall thereupon be stayed.

(b) An appeal taken pursuant to subsection (a) of this section may also include claims and counter-claims not raised in the initial proceeding; provided, that within 5 days of the filing of the appeal, the claimant also files a bill of particulars identifying any new issues which claimant intends to raise at the hearing which were not raised in the initial proceeding.

(c) With regard to jury trials, a party aggrieved by the judgment rendered in such proceeding may request, in writing, within 5 days after judgment, a review by an appellate court comprised of 3 justices of the peace other than the justice of the peace who presided at the jury trial, as appointed by the chief magistrate or a designee. This review shall be on the record and the party seeking the review must designate with particularity the points of law which the party appealing feels were erroneously applied at the trial court level. The decision on the record shall be by majority vote. No such request shall stay proceedings on such judgment unless the aggrieved party, at the time of making such request, shall execute and file with the Court an undertaking to the successful party, with such bond or other assurances as may be required by the Court, to the effect that the aggrieved party will pay all costs of such proceedings which may be awarded against that party and abide the order of the Court therein and pay all damages, including rent, justly accruing during the pendency of such proceedings. All further proceedings in execution of the judgment shall thereupon be stayed.

(d) The Court shall not issue the writ of possession during the 5-day appeal period. After the 5-day appeal period has ended, the Court may issue the writ of possession at the plaintiff's request if the defendant has filed an appeal, but not filed a bond or other assurance or an in forma pauperis request to stay the issuance of the writ of possession. If the plaintiff executes on the writ of possession prior to a determination of the appeal and the appealing party is ultimately successful, then the plaintiff shall be responsible for reasonable cover damages (including, but not limited to, the cost of substitute housing or relocation) for the period of the dispossession as a result of the execution of the writ of possession, plus court costs and fees.

(e) An aggrieved party may appeal in forma pauperis if the Court grants an application for such status. In that event, the Court may waive the filing fee and bond for a trial de novo, a trial on the record or a request to stay the writ of possession.

(f) An appeal taken pursuant to this section may include any issue on which judgment was rendered at the trial court level, including the issue of back rent due, any other statute to the contrary notwithstanding.

(70 Del. Laws, c. 513, § 4.)

## § 5718 Proceedings in forma pauperis.

Upon application of a party claiming to be indigent, the Court may authorize the commencement, prosecution or defense of any civil action or civil appeal without prepayment of fees and costs or security therefor by a person who makes an affidavit that such person is unable to pay the costs or give security therefore. Such affidavit shall state the nature of the action or defense and the affiant's belief that the affiant is entitled to redress, and shall state sufficient facts from which the Court may make an objective determination of the petitioner's alleged indigence.

The Court may, in its discretion, conduct a hearing on the question of indigence. In any action in which a claim for damages is asserted by a party seeking the benefit of this rule, the prothonotary shall, before entering a dismissal of the claim or satisfaction of any judgment entered therein, require payment of accrued court costs from any party for whose benefit this rule has been applied if said party has recovered a judgment in said proceedings or received any funds in settlement thereof. A party and such party's attorney of record shall file appropriate affidavits in the event a claim is sought to be dismissed without settlement or recovery.

(70 Del. Laws, c. 513, § 4.)

## § 5719 Landlord regaining possession of residential rental unit upon the death of a deceased sole tenant.

(a) Possession of a residential rental unit upon the death of a sole tenant shall be returned to the landlord without an action for summary possession if:

(1) An affiant or personal representative of the deceased sole tenant's estate presents the landlord with valid documentation issued by the register of wills evidencing such representation pursuant to Title 12, in which case the landlord shall allow the affiant or personal representative access to the residential rental unit of the deceased sole tenant to remove the deceased sole tenant's belongings; and

(2) An affiant or personal representative informs the landlord that further access to the deceased sole tenant's residential rental unit is not needed by the affiant or personal representative and/or their agents or 30 days have elapsed since the death of the deceased sole tenant and the affiant or personal representative has not provided the landlord written notice that access to the deceased sole tenant's residential rental unit is still needed by the affiant or personal representative and/or their agents.

(b) If an affiant or personal representative of the deceased sole tenant's estate presents the landlord with valid documentation issued by the register of wills evidencing such representation pursuant to Title 12, the landlord still retains the right to initiate at any time an action for summary possession and/or moneys due, in which case the landlord shall bring the action against the estate of the deceased sole tenant and serve the complaint upon the affiant or personal representative at the address provided by the affiant or personal representative and, if no such good address is provided, then to serve the complaint upon the register of wills in the county in which the residential rental unit is located. If an affiant or personal representative of the deceased sole tenant's estate does not present the landlord with valid documentation issued by the register of wills evidencing such representation pursuant to Title 12, the landlord must serve the register of wills in the county in which the residential unit is located in order to bring an action for summary possession to obtain possession of the residential rental unit and moneys due, if any. Anytime the register of wills is to be served as a registered agent for an estate, prior to initiating the action, the landlord must place a notice of such action in a paper that is circulated in the county in which the residential rental unit is located. The notice must identify: the name of the landlord; the name of the deceased sole tenant; the residential rental unit address; the type of action to be brought; the court in which such action will be brought; and the amount of the claim, if any.

(c) If at the time of the execution of the writ of possession there is still property inside the deceased sole tenant's residential rental unit that does not belong to the landlord then the landlord shall have the right to immediately remove and store such property for a period of 7 days, at the expense of the estate of the deceased sole tenant. If at the end of such period, a representative of the estate, who has valid documentation of such representation issued by the register of wills pursuant to Title 12, has failed to claim said property and reimburse the landlord for the reasonable expenses of removal and storage, such property shall be deemed abandoned and may be disposed of by the landlord without further notice or obligation to any party. Upon rendering a final judgment for plaintiff, but in no case prior to the expiration of the time for the filing of an appeal or motion to vacate or open the judgment, the court shall issue a writ of possession directed to the constable or the sheriff of the county in which the property is located, describing the property and commanding the officer to remove all persons and put the plaintiff into full possession.

(d) If the landlord is not entitled to all or any portion of the security deposit, the landlord shall remit the security deposit within 20 days of receiving possession of the residential rental unit (or, if storage of property that was inside the deceased sole tenant's residential rental unit is required, then within 20 days after the storage of said property has ended) to a representative of the estate of the deceased sole tenant, if any, who has valid documentation of such representation issued by the register of wills pursuant to Title 12. Within 20 days after receiving possession of the residential rental unit of the deceased sole tenant (or, if storage of property that was inside the deceased sole tenant's residential rental unit is required, then within 20 days after the storage of said property has ended), the landlord shall provide the representative of the estate of the deceased sole tenant, if any, with an itemized list of damages to the premises and the estimated costs of repair for each and shall tender payment for the difference between any rental amount due and owing, the security deposit and such costs of repair of damage to the premises. Failure to do so shall constitute an acknowledgment by the landlord that no payment is due. The representative's acceptance of a payment submitted with an itemized list of damages shall constitute agreement on the rental amount due, if any, and damages as specified by the landlord, unless the representative of the estate, within 10 days of the representative's receipt of such tender of payment, objects in writing to the amount withheld by the landlord. Failure for a representative of the estate to present the landlord with valid documentation of such representation issued by the register of wills or failure of the representative to provide the landlord with a good address shall relieve the landlord of responsibility to give notice of any damages and potential liability for double the amount of the security deposit, but the landlord shall continue to be liable to the representative of the estate for any unused portion of the security deposit; provided, that the representative of the estate shall make a claim in writing to the landlord within 1 year from the landlord receiving possession of the residential rental unit of the deceased sole tenant.

(79 Del. Laws, c. 65, § 4.)