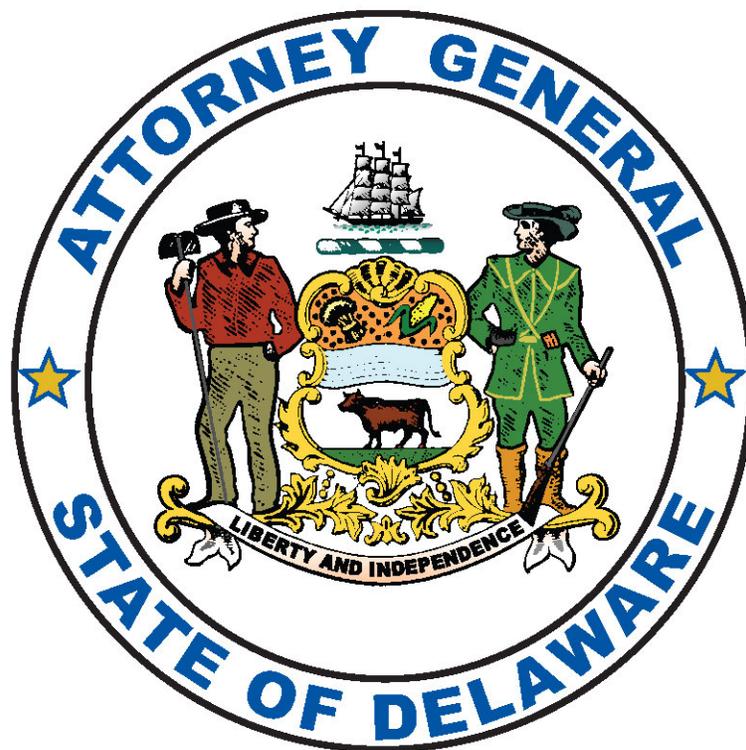


STATE OF DELAWARE DEPARTMENT OF JUSTICE

Summary of the Delaware Manufactured Homes Owners and Community Owners Act

September 2014



DELAWARE DEPARTMENT OF JUSTICE
CONSUMER PROTECTION UNIT

A Summary of the Delaware Manufactured Homes Owners and Community Owners Act

* This Summary MUST be provided to all to prospective tenants prior to renting a lot in a manufactured home community.*

Revised September 2014

The information in this publication covers most individuals in the State of Delaware who rent lots within a manufactured home community. Many laws apply to the relationship between homeowners who own their home, tenants who rent their home (collectively "tenants") and community owners ("landlords"). **This summary will tell you about the most common laws concerning your rights and responsibilities as a tenant.** The Delaware Manufactured Homes Owners and Community Owners Act ("MHOCOA"), Chapter 70 of Title 25, can be found in its entirety online at: <http://delcode.delaware.gov/title25/index.shtml#TopOfPage>. A free copy is available by calling the Delaware Legislative Council at 1-800-282-8545. **This summary is general information only and is not legal advice. All tenants should read the MHOCOA in full before taking any action.**

You will see citations in this packet, for example, 25 *Del. C.* § 7001. "Del. C." stands for the Delaware Code, the law of the State of Delaware. These citations tell you the specific law that supports the statement before the citation. The citations can help you to look up the law, at your local law library or online. Where only a § number appears, it can be found in Title 25 of the Delaware Code, the title that deals with laws governing real property (for example, § 7002). This is a summary of MHOCOA as it exists on January 1, 2014. Since MHOCOA has been amended several times over its lifetime, it may be possible that certain provisions will not be applicable to leases existing prior to 2014.

Enforcement of the Act

The Consumer Protection Unit ("CPU") of the Attorney General's Office. The CPU has enforcement authority over violations of MHOCOA (§ 7025). Tenants who believe their landlord has committed a violation of the MHOCOA may obtain a copy of the CPU's Complaint form at <http://www.attorneygeneral.delaware.gov/media/pdf/complaintform.pdf>. The CPU represents the People of the State of Delaware in protecting the consuming public. Delaware law does not authorize our office to provide tenants with private representation in lease disputes or in breach of contract cases. These types of complaints can only be resolved by the courts. However, because the CPU may take enforcement action if a landlord engages in a pattern or practice of violating the lease terms required by MHOCOA, a tenant should file a complaint, if they believe that is the case. The CPU will retain a copy of the complaint for its files to determine the likelihood the landlord may be engaging in a pattern or practice of similar violations.

Alternative Dispute Resolution. The Delaware Manufactured Housing Alternative Dispute Resolution Act sets out an alternative method a tenant and a landlord may use to resolve disputes (§ 7001A). All parties to the dispute must agree to use this non-binding process (§ 7001A(d)&(e)).

Private cause of action in court. Both landlord and tenants have a right to maintain a cause of action in court upon the other's breach of the lease or upon violation of the MHOCOA (§ 7002(a)). Remedies provided by the MHOCOA are in addition to other remedies available to a landlord or a tenant (§ 7006(j)). If you believe you have a private right of action you should consult with private counsel or contact the following organizations that may be able to provide legal assistance: Community Legal Aid Society Inc. 302.575.0660, Delaware Volunteer Legal Services, Inc. 302.478.8680, Legal Services Corporation of Delaware 302.575.0408

FOR ADDITIONAL INFORMATION, PLEASE CONTACT US:

Consumer Protection Unit • Attorney General's Office • 820 N. French Street, 5th Floor • Wilmington, DE 19801
302.577.8600 (New Castle County) 800.220.5424 (Kent & Sussex Counties)

Email: consumer.protection@state.de.us

Web: <http://www.attorneygeneral.delaware.gov/consumers/protection/complaint.shtml>

| | | |
|------|--|---|
| I. | OVERVIEW AND SCOPE | 1 |
| | Purpose (§ 7001(a)) | 1 |
| | Applicability | 1 |
| | Definitions (§7003) | 1 |
| | Notice (§ 7024) | 1 |
| II. | BECOMING A TENANT | 1 |
| | Application fee (§ 7008(d)) | 1 |
| | Rental agreement or lease terms; when written lease required | 1 |
| | Manufactured Home and Lot Must Conform | 1 |
| | Required lease summary (§7006(a)(10)) | 2 |
| | Required lease provisions (§§ 7006(a)) | 2 |
| | Provisions Related to the Landlord’s Duties (§ 7006(a)(13)) | 2 |
| | Provisions related to the Tenant’s Duties (§ 7006(a)(14)) | 2 |
| | Prohibited Lease Provisions (§§7001(b), 7006) | 2 |
| | Penalties for omission or inclusion(§ 7006(c),(h)&(i)) | 3 |
| | Optional lease provisions | 3 |
| | Security Deposits (§7018) | 3 |
| | Purpose (§7018(c)) | 3 |
| | Amount (§7018(a)(h) & (i)) | 4 |
| | How Held (§7018(b)&(f)(2)) | 4 |
| | Procedure for return of security/pet deposits ((§7018(d)-(g)) | 4 |
| III. | FEES & FEE SCHEDULE | 4 |
| | Requirements. (§7008) | 4 |
| | Pass Through Utility Fees (§ 7008(e)) | 4 |
| | Late Fees (§ 7006(b)(6), §7008(f)) | 5 |
| | Optional User Fees (§ 7008 (g)-(k)) | 5 |
| IV. | RULES AND STANDARDS | 5 |
| | In General | 5 |
| | Rules (§ 7019) | 5 |
| | Standards (§ 7020) | 5 |
| V. | AUTOMATIC LEASE RENEWAL & CHANGES TO THE LEASE, RULES, STANDARDS AND FEES | 5 |
| | Automatic renewal upon expiration; parties may agree to modification (§§ 7007(b)) | 5 |

| | |
|--|----|
| Changes in terms Related to Rent; Affordable Manufactured Housing (§ 7007) | 6 |
| Rent Justification (§7042) | 6 |
| Dispute Resolution (§§ 7043-7045) | 6 |
| Changes in terms Related to the Discontinuance of Utilities or Services (§ 7008(l)) | 6 |
| Changes to the Rules or Standards (§§ 7019(c), 7020(e)) | 7 |
| Changes to Fees; Utility Rate Adjustments (§ 7008(i) &(j)) | 7 |
| VI. MISCELLANEOUS PROHIBITED LANDLORD/TENANT CONDUCT | 7 |
| Use of a Community Center (§7008(m)) | 7 |
| Misrepresentation with Intent to Deceive the Tenant (Bad Faith Change in Use) (§ 7010(c)) | 7 |
| Placing Undue Pressure on a Tenant to Sell the Home to the Landlord (§7022(c)(6)) | 7 |
| Retaliatory Acts Prohibited (§ 7023) | 7 |
| VII. TENANT LEASE TERMINATIONS/NON-RENEWALS | 8 |
| Notice to Landlord where Tenant Terminates Lease (§§ 7006, 7007, 7022) | 8 |
| Landlord's Non-Compliance or Impairment of Tenant's Enjoyment (§ 7009) | 8 |
| VIII. LANDLORD LEASE TERMINATIONS/NON-RENEWALS | 8 |
| Due cause; Notice (§§ 7007(b)(2), 7010 (a)) | 8 |
| Due cause based on a good faith intention to change use (§ 7010) | 8 |
| Due cause based on conduct of tenant (§§ 7010A, 7022(c)) | 9 |
| Termination shall occur immediately upon: | 9 |
| Termination may occur upon prior notice: | 9 |
| Termination for failure to pay rent; required notice: | 9 |
| Landlord's Remedy if the Tenant Remains in Possession after the Lease Termination (§ 7016) | 10 |
| IX. SALE OF THE MANUFACTURED HOME OR THE COMMUNITY | 10 |
| Sale of Manufactured Home (§ 7022) | 10 |
| Limitations on Tenant's Right to Transfer a Manufactured Home Not Compliant with Standards | 10 |
| Limitations on Right to Assign Lease (§7022(b)&(d)(1)) | 10 |
| Required Notice; Landlord's Right to Purchase (§7022(c)) | 10 |
| Sale of Manufactured Home Community & Associations Right of First Offer (§ 7026) | 11 |
| Section 7005 Receipt | 12 |

I. OVERVIEW AND SCOPE

Purpose (§ 7001(a))

- clarify and establish the law governing the rental of lots for manufactured homes
- clarify and establish the rights and obligations of manufactured home landlords, manufactured home tenants, and residents of manufactured home communities; and
- to encourage landlords, tenants, and residents to maintain and improve the quality of life in manufactured home communities

Applicability

- MHOCOA governs the relationship between landlord and tenant regarding the lot rental, however, if no provision of MHOCOA applies, the Residential Landlord-Tenant Code will govern (§§7002, 7006(a)(12))
- MHOCOA does not apply to the rental of ground upon which a recreational vehicle is placed or the rental of ground within the category of seasonal property (§ 7004)

Definitions (§7003)

- Certain terms utilized throughout MHOCOA are specifically defined, including: Agreement; Authority; Common Area; Community Owner/Landlord; Guest/Visitor; Hold Over; Holdover; Homeowner/Tenant; Lease/Rental Agreement; Manufactured Home; Manufactured Home Community; Notice; Premises; Quiet Enjoyment; Recreational Vehicle; Rent; Resident; Seasonal Property; Tree; Trust Fund; Utility Charge; and Utility Service
- Fee/Charge is defined in § 7008(a); Entrance and Exit fees are defined in § 7008(k).

Notice (§ 7024)

Unless otherwise specified, any notice required by the MHOCOA must be in writing and may be served upon the landlord or upon the tenant in any of the following ways:

- Personal service by leaving a copy with an adult or an agent at the dwelling or place of business
- Regular First Class Mail with proof of mailing or by certified mail, return receipt requested
- In the case of mailed notice, the return receipt signed or unsigned, or the certificate of mailing, is considered evidence of service of the notice
- For certain communications and notices related to security deposits, additional technical requirements are set out in § 7018(f) and (g).

II. BECOMING A TENANT

Application fee (§ 7008(d))

- A landlord may require a prospective tenant to pay an application fee to determine credit worthiness so long as a receipt is provided and records related to such fees retained for two years
- The application fee may not exceed the greater of 10% of the monthly lot rent or \$50
- If the fee exceeds that amount, the tenant is entitled to damages equal to double the amount demanded

Rental agreement or lease terms; when written lease required

- A lease must be executed before a tenant occupies a lot (§ 7006(e))
- Tendered leases signed by one party shall be valid for no longer than one year once rent or occupancy commences (§ 7017)
- Prior to renting a lot, a landlord must provide a prospective tenant with a copy of the lease, the rules, the standards, the fee schedule, the full MHOCOA and this summary and the prospective tenant must sign a receipt acknowledging delivery of these documents prior to renting a lot (see sample receipt at end of summary) (§ 7005)

Manufactured Home and Lot Must Conform

- A landlord may refuse to allow the placement of a manufactured home on a lot if the home does not meet the written community standards (§7020(b))

- A rental lot must conform to applicable state, county, or municipal statutes, ordinances or regulations before a landlord may offer the lot for rent (§ 7006(f))
- If the lot does not conform to any applicable law, the landlord may be fined not more than \$1,000 (§ 7006(g))

Required lease summary (§7006(a)(10))

- A summary shall be attached to the lease which includes brief description of the home, the lot, rent terms, where notice is to be given, fees, security deposit, information regarding any rent adjustment
- The summary shall also include the amount of rent charged for past three years but rent history may not be used as a predictor of future rents, nor may it be used against the landlord

Required lease provisions (§§ 7006(a))

- Identity and location of the rented lot
- Total amount of annual rent, the monthly amount (total annual rent divided by twelve) and payment date
- Amount and conditions of any late payment fee
- A listing of each fee in a manner that identifies the service to be provided for the fee
- Name and address of the person authorized to receive notices and accept service on the landlord's behalf
- Name and location of the landlord's security-deposit account
- Description of utilities provided by the landlord, who is responsible for payment and the related fees or charges that may be imposed in connection with the utility, facility and or service
- Grounds for lease termination and notice provisions required by the MHOCOA
- A reference to MHOCOA as the law governing the relationship between the parties regarding the lot rental
- Provisions with respect to the landlord's and tenant's duties outlined below track or accurately paraphrase the language of the MHOCOA (outlined below)
- Term of the lease which shall be for one year; may be shorter if agreed upon by the parties (§7007(a))

Provisions Related to the Landlord's Duties (§ 7006(a)(13))

The specific provisions MHOCOA requires to be in the lease with respect to the landlord's duties relate to:

- Standing water
- The health and safety of residents, visitors, and guests
- Identification of lot sufficient for tenant to identify areas of responsibility
- Weeds or plant growth which are noxious
- Infestations in common areas
- Utility or service problems
- Septic system maintenance
- The tenant's right to privacy and the landlord's right of entry
- Road maintenance
- Building code compliance
- Freedom of choice in connection with the purchase of goods and services
- Tree maintenance

Provisions related to the Tenant's Duties (§ 7006(a)(14))

The specific provisions MHOCOA requires to be in the lease with respect to the tenant's duties relate to the:

- Condition of the exterior of the home and the lot
- Storage of certain items on the lot
- Disposal of waste materials
- Provision requiring the tenant to abide by all reasonable written rules and standards concerning the use, occupation and the maintenance of the premises

Prohibited Lease Provisions (§§7001(b), 7006)

Inclusions of the following provisions are unenforceable and may entitle the tenant actual damages plus court costs and, upon a determination that the omission was willful, an amount equal to three months rent

- Providing for the confession of judgment (where one party agrees to let the other party enter a judgment against him or her) or limiting liquidated damages for the tenant
- Providing for the waiver of any right or remedy the tenant is entitled to under the MHOCOA
- Providing for possession absent a court proceeding
- Providing for a late fee in excess of what is permitted or without granting a five day grace period
- Collecting a security deposit in excess of what is permitted or permitting an unlawful withholding of same
- Collecting a deposit for a government-mandated charge in excess of one billing period or upon termination of lease if tenant has paid charge
- Restricting the tenant's lease termination rights in connection with commuting changes caused by the tenant's current employment
- Restricting the tenant's lease termination rights in connection with armed forces reassignment orders
- Providing for waiver or limitation on the landlord's liability or indemnification for such liability
- Prohibiting the tenant from terminating the lease pursuant to the MHOCOA
- Prohibiting "for sale" signs
- Unreasonable restrictions of choice in the tenant's purchases of goods & services
- Providing for the recovery of attorney's fees
- Any provisions conflicts with federal, state or local law or FCC regulations
- Requirements related to buying a home from the landlord or utilizing the landlord to sell the home
- Requirements related to the sale or transfer of a home to a landlord contrary to the MHOCOA
- Requiring the tenant to provide the landlord keys
- Prohibiting use of satellite dishes or television antennas
- Requiring automatic rent deductions
- Provisions which grants landlord an option of first refusal

Penalties for omission or inclusion (§ 7006(c),(h)&(i))

- Failure to include the required provisions, or inclusion of the prohibited provisions, may entitle the tenant to actual damages plus court costs
- Upon a determination that the omission or inclusion was willful, tenant is entitled to an amount equal to three months rent

Optional lease provisions

The following provisions are only permitted if parties agree:

- The payment of rent in one lump sum, semi-annual, or quarterly if requested by tenant; however, a landlord may offer a discount as in an incentive for a tenant to pay annually, semi-annually or quarterly provided it is made clear that the homeowners are free to pay monthly (§§ 7006(a)(3), 7015A.)
- A provision which permits the landlord to charge an amount in excess of 1 month's rent for a security/pet deposit or to retain the security deposit upon termination of the rental agreement even though 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 (§ 7006(b)(7), 7018(a)(2) & (h)(3))
- A rental agreement term for shorter or longer than one year that is designated in writing (§7007(a)(2))
- A provision that the tenant will provide more or less than 60 days notice prior to termination of the lease (§7007(b)(1))

Security Deposits (§7018)

Purpose (§7018(c))

- To reimburse landlord for damages caused to the premises by tenant which exceed normal wear and tear
- To reimburse the landlord for reasonable expenses incurred in renovating and re-renting the premises caused by the early termination of the lease, but shall not exceed one month's rent
- 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

Amount (§7018(a)(h) & (i))

- A landlord may require a security deposit as provided in the lease not to exceed one month's rent unless otherwise agreed by the parties in writing
- If a tenant houses a pet in the unit, the landlord may require the payment of a pet deposit not to exceed one month's rent, unless otherwise agreed by the parties in writing; a pet deposit shall not be charged for a certified trained service animal
- If the lease specifies, the landlord may increase the security deposit to an amount commensurate with the rent; if the increase will exceed 10% of the monthly rent, payment shall be prorated over the term of the lease

How Held (§7018(b)&(f)(2))

- Security/pet deposits must be held in a "security deposit account" at a federally insured bank in Delaware and cannot be used in the operation of the business of the landlord
- The landlord must disclose the location of the security deposit account within 20 days of the receipt of a written request or forfeit the security deposit to the tenant
- Failure to forfeit in this time period shall entitle tenant to double the amount of the security/pet deposit

Procedure for return of security/pet deposits (§7018(d)-(g))

- Within 20 days of the termination/expiration of the lease, the landlord must either remit the full security/pet deposit or provide the tenant with an itemized listing of damages with the cost of repair and remit any money remaining from the security/pet deposit to the tenant. If the landlord fails to provide the itemized listing, the security/pet deposit must be returned to the tenant in full
- To the extent the damages are caused by pets and there is a pet deposit, the damages must be deducted from the pet deposit first, prior to deducting from the non-pet security deposit. However, a landlord may deduct non-pet related damages from the pet deposit even if the damages are not related to damages caused by a pet if the non-pet security deposit is insufficient to cover those damages
- If the tenant does not agree with the list of damages or the amount being withheld, then the tenant must object to the itemized listing of any damages or the amount of money being withheld within ten days of receipt
- Failure to return any security/pet deposit due to the tenant, shall entitle the tenant to recover double the amount wrongfully withheld by the landlord
- Prior to vacating the property the tenant must provide, in writing, a forwarding address. Upon failure to do so, the landlord must hold the unused portion of the security/pet deposit in the account for the period of one year

III. FEES & FEE SCHEDULE

Requirements. (§7008)

A fee is a monetary obligation other than lot rent that is assessed by a landlord to a tenant for a service provided, an expense incurred as a direct result of the tenant's use of the premises or the tenant's acts or omissions

- A fee schedule shall be attached to the lease that clearly discloses all fees
- Rates for utilities charged by a landlord may not exceed the utility's retail consumer rate
- Landlord shall give tenant 5 days to remedy or correct before assessing a fee for the tenant's failure to perform a duty arising under the lease
- A landlord may not assess an entrance or an exit fee
- The lease must list each fee in a manner that identifies the service to be provided for the fee (§ 7006(a)(6))

Pass Through Utility Fees (§ 7008(e))

- A landlord may assess the tenant a fee when the landlord pays a third party utility charge for which the tenant is responsible for paying, but has failed to pay
- The pass-through utility fee may include third party late fees as well as a third-party payment fee for the landlord not to exceed the greater of \$25 or 5% of the payment the landlord makes to the third-party

Late Fees (§ 7006(b)(6), §7008(f))

- If the lease provides for a late fee, the landlord may assess one provided the rent has not been paid within five days of the due date in the lease
- If the late fee is based on a monthly payment, the late fee may not exceed the greater of 5% of the rental payment or \$25

Optional User Fees (§ 7008 (g)-(k))

- The landlord may access optional user fees for requested use of a facility or service such as, but not limited to, a swimming pool, marine facilities, and tennis courts
- The amount of the optional-user fee must be reasonably related to the cost of providing the facility or service upon which the fee is based
- The landlord can only withhold services upon nonpayment of the optional service fee

IV. RULES AND STANDARDS

In General

- Rules and standards must be reasonable, in writing and fairly applied
- 60 day notice required before establishing new or amending existing rule or standard
- Five person tenant committee may be formed to meet with landowner within ten days to discuss support for implementation or change of rule or standard
- Landlord shall not be precluded from enforcing a rule or standard due to prior non-enforcement based upon a tenant's unique circumstances

Rules (§ 7019)

A landlord may promulgate rules concerning the occupancy and use of the premises, the use of the landlord's property, and the behavior of tenants, residents, guests and visitors so long as the rules relate to:

- Promoting the health, safety, or welfare of tenants, residents, guests or visitors
- Promoting the residents' quiet enjoyment
- Preserving the property values of tenants and/or landlords
- Promoting the orderly and efficient operation of the manufactured home community
- Preserving the tenants' and/or landlords' property from abuse

Standards (§ 7020)

A landlord may adopt standards in compliance with the following:

- New home to be located in the community: standards may relate to the size, age, quality, appearance, construction, materials and safety features
- Resale or transfer of title of a home that will remain in the community: standards shall relate only to appearance, maintenance, safety and compliance with housing, building or health codes, and the 1976 HUD code (age may not be the exclusive or dominant factor); the landlord has ten days after a written request by the tenant to reevaluate a home that previously did not meet these standards
- Existing home: A tenant has nine years to comply with a newly promulgated non-resale related standard although the landlord may shorten this compliance period if the change to the home is necessary to protect life or for other safety reasons

V. AUTOMATIC LEASE RENEWAL & CHANGES TO THE LEASE, RULES, STANDARDS AND FEES

Automatic renewal upon expiration; parties may agree to modification (§§ 7007(b))

- Absent required notice to terminate the lease, upon the expiration of the term, the rental agreement shall be automatically renewed by the landlord for the same term and with the same provisions as the original agreement, with the exception that modified provisions relating to the amount and payment of rent are permitted
- The landlord and tenant may agree to mutually modify any provision in the lease

- the landlord may increase the security deposit to an amount commensurate with the rent; if the increase will exceed 10% of the monthly rent, payment shall be prorated over the term of the lease (§7018(i))

Changes in terms Related to Rent; Affordable Manufactured Housing (§ 7007)

- In the case of a renewing lease, if applicable, the landlord may modify provisions related to the amount and payment of rent in accordance with the Affordable Manufactured Housing provisions of the MHOCOA (§ 7040-7046)
- A landlord may not increase the rent without providing the tenant a minimum of 90 days written notice (§7007(b)(2))
- A landlord may not increase the rent more than once during a 12 month period (§ 7021)
- Lot Rental Assistance Program: If the community has 26 or more lots, a tenant may be eligible for lot rental assistance from the landlord; the specific eligibility requirements are set out in § 7021A

Rent Justification (§7042)

A community owner in good standing may raise a tenant's rent in an amount greater than the average annual increase of the Consumer Price Index provided the proposed rent increase is directly related to operating, maintaining or improving the manufactured home community and justified by one or more of the following:

- Completion and cost of any capital improvements or rehabilitation work as distinguished from ordinary repair, replacement and maintenance
- Need for repairs caused by circumstances other than ordinary wear and tear
- Changes in property taxes or other taxes, utility charges, insurance costs and financing
- Changes in reasonable operating and maintenance expenses relating to the manufactured home community including, but not limited to: costs for water service; sewer service; septic service; water disposal; trash collection; and employees
- By an increase in market rent
- Amount of rental assistance provided by the community owner

Dispute Resolution (§§ 7043-7045)

- Tenants and the Delaware Manufactured Home Relocation Authority (the "Authority") must receive notice 90 days prior to any increase in rent
- After receiving notice, the Authority shall schedule a meeting between homeowner's association, the affected tenants and the landowner within 30 days if the rent increase exceeds the CPI-U, to discuss the reasons for the increase
- If such meeting fails to resolve any dispute, any affected homeowner or party may, within 30 days from the conclusion of the final meeting, petition the Authority to appoint a qualified arbitrator to conduct nonbinding arbitration proceedings.
- Either party has 30 days of the date of issuance of the arbitrator's decision to appeal to the Superior Court.
- Violation of this section shall entitle the tenant to a reduction of the rent to the amount in effect before the unauthorized increase and rebate the unauthorized rent collected to the home owners with interest.

Changes in terms Related to the Discontinuance of Utilities or Services (§ 7008(l))

- A landlord may discontinue utilities, facilities, or services after giving 60 days notice and an explanation of the discontinuance and the reduction in the direct operating cost, if any, associated with the discontinuance
- No notice is required for utility rate adjustments.
- The tenants' have ten days to form a committee, not to exceed five members, after the landlord issues notice related to the discontinuance
- The landlord and the committee must meet at a mutually convenient time and place to discuss all material factors for the proposed discontinuance including providing supporting documentation
- The landlord must adjust the tenant's rent or fee by deducting the landlord's direct operating costs of providing the discontinued utility, facility or service (as determined by an independent public accountant or certified public accountant paid for by the landlord which shall be binding)

Changes to the Rules or Standards (§§ 7019(c), 7020(e))

- A landlord may amend or establish a rule or standard at anytime, but such rule or standard is not effective until 60 days after the landlord delivers written notice to the tenant, or later if specified in the rule
- The tenants' have ten days to form a committee, not to exceed five members, after the landlord issues notice related to the rule or standard establishment or change
- The landlord and the committee must meet at a mutually convenient time and place to discuss all material factors for the proposed rule or standard establishment or change including providing supporting documentation

Changes to Fees; Utility Rate Adjustments (§ 7008(i) &(j))

- The landlord may not increase a fee more than once during any 12 month period; however, the landlord may adjust the utility rate on a monthly basis (no notice is required for utility rate adjustments)
- A landlord may increase existing fees or add a new fee after giving 60 days notice prior to the effective date of the increase or addition, otherwise the fee is unenforceable

VI. MISCELLANEOUS PROHIBITED LANDLORD/TENANT CONDUCT

Use of a Community Center (§7008(m))

- If there is a community center available for use by tenants, the landlord must allow a tenant's association or similar tenant's group to use the center for purposes related to the tenants' rights and obligations in the community; all use requests must be honored within 14 days
- The landlord may not charge such group any more than is charged to tenants for the ordinary use of the community center and the tenants must abide by all existing rules established for the community center

Misrepresentation with Intent to Deceive the Tenant (Bad Faith Change in Use) (§ 7010(c))

- It is an act of misrepresentation with intent to deceive the tenant if the landlord does not in good faith intend to change the use of the community but terminates or refuses to renew a lease citing such intent
- Remedies upon a determination that the landlord committed such an act include a cease and desist order, penalties up to \$250 per violation (doubled for tenants over 65 years), restitution, attorney's fees, and/or costs

Placing Undue Pressure on a Tenant to Sell the Home to the Landlord (§7022(c)(6))

- The tenant may file a private right of action if the landlord exerts undue influence or pressure on them to sell their home to the landlord, however, raising rent to a level within the range of market lot rents is generally not undue influence
- Penalties include three times the actual damages, court costs and inability of landlord to buy tenant's home for one year

Retaliatory Acts Prohibited (§ 7023)

- A landlord acts in a retaliatory manner if the landlord pursues an action for summary possession, terminate a tenant's rental agreement or otherwise attempts to force the tenant to leave the premises or decrease services to which the tenant is entitled in response to a:
 - tenant's complaint alleging the condition of the lot or community does not meet applicable laws
 - the commencement of an enforcement action based upon a tenant's complaint
 - the tenant's organization or participation in a tenant association; or
 - pursuit of any legal right or remedy arising from the tenancy
- A rebuttable presumption arises if an adverse action is taken within ninety (90) days after such conduct but such presumption can be overcome by the landlord's showing of a legitimate reason for taking such action
- Upon a court finding that the landlord has engaged in retaliatory actions, the tenant shall be entitled to recover three months' rent or treble the damages sustained by tenant, whichever is greater, together with the cost of the suit

VII. TENANT LEASE TERMINATIONS/NON-RENEWALS

Notice to Landlord where Tenant Terminates Lease (§§ 7006, 7007, 7022)

- 60 days advance written notice, unless a shorter or longer term is agreed to by the parties, by tenant to landlord of non-renewal, which can be for any reason (§ 7007(b)(1))
- 30 days advance written notice to landlord where there is a change in the location of the tenant's current job that increases the tenant's commute by 30 miles or more, however, if the relocation is the result of military reassignment orders that do not allow 30 days notice, the time allowed for notice may be shorter (§ 7006(9))
- Upon execution of a new lease where the landlord accepts a buyer of the tenant's home as a prospective tenant (§7022(d)(2))

Landlord's Non-Compliance or Impairment of Tenant's Enjoyment (§ 7009)

The tenant may terminate the lease and vacate the lot upon notice in writing to the landlord upon the following occurrences:

- During the first month. If a violation MHOCOA or related laws or a material breach of the lease occurs within the first month of occupancy, or thereafter if tenant remains in occupancy based upon landlord's representations that the condition will be corrected (§7009(a))
- During the first 18 months. If the landlord induces the tenant to enter the lease by intentionally misrepresenting a material fact regarding the community, the services provided by the landlord, or a provision of a lease in an advertisement during the first 18 months of the lease (§ 7009(e))
- Failure to remedy in 15 days. If a condition substantially deprives the tenant of the benefit and enjoyment of lease and if the landlord does not remedy the condition within 15 days after the tenant mails written notice; although no notice is required if the premises is uninhabitable or an imminent threat to health, safety or welfare exists (§7009(b))
- Penalties. The tenant may recover certain damages, related to the non-compliance if it was caused by the landlord but the tenant may not exercise the right of termination if the non-compliance is caused by a lack of due care by the tenant or a resident or guest in the tenant's home (§ 7009(d)).

VIII. LANDLORD LEASE TERMINATIONS/NON-RENEWALS

Due cause; Notice (§§ 7007(b)(2), 7010 (a))

The landlord must have due cause not to renew the lease and, unless a shorter time period is permitted by the provisions below, give the tenant a minimum of 90 days written notice that the agreement will not be renewed based upon due cause

Due cause based on a good faith intention to change use (§ 7010)

- If the landlord to intends to change the use of the land or portion of the land, the landlord must provide all affected tenants with at least a one year termination or non-renewal notice in writing
- The landlord must post the written notice on each affected tenant's home and send by certified mail, return receipt requested, a copy of the written notice to each affected tenant
- The notice must inform the affected tenants of the need to secure another location for their manufactured homes and contain a relocation plan with certain information related to tenants' options including information related to other manufactured home communities within a 25 miles, a description of relocation and abandonment procedures a preliminary indication of whether a tenant's home can or cannot be relocated and a copy of § 7010
- With regard to older tenants and tenants with disabilities, the notice must include housing options for such tenants within a 25 mile radius and government and community agencies available to assist such tenants; It is a violation of MHOCOA for the landlord to fail to comply with all federal, state and local laws relating to older tenants and tenants with disabilities during the relocation process
- The landlord must also submit a copy of the relocation plan to the Authority
- The relocation plan must be updated and distributed to tenants and the Authority quarterly; failure to do so will extend the tenant's lease by one month for each omitted quarterly update

- The landlord may not increase the lot rent of an affected tenant after giving notice of a change in use
- The Delaware Manufactured Home Relocation Trust Fund provides monetary assistance for tenants who are required to relocate due to a change in use or conversion to a condominium or cooperative community; the amount, requirements, and restrictions related to the financial assistance tenants may receive are set out in §§ 7013-15
- The Trust Fund also provides financial assistance to community owners with the removal and/or disposal of non-relocatable or abandoned manufactured homes; the amount, requirements, and restrictions related to the financial assistance community owners may received is set out in § 7014

Due cause based on conduct of tenant (§§ 7010A, 7022(c))

- Due cause can be based on certain prohibitive conduct by the tenant, resident or guests (§§7009(c), 7010A(a)) that must be established by clear and convincing evidence (§ 7010A(1)) unless the conduct resulted in immediate and irreparable harm and the tenant or resident's conduct resulted in a conviction of a crime or adjudication of delinquency (§7010A(2))
- Termination shall occur upon written notice specifying the reasons for such action in sufficient detail so that the dates, places and circumstances concerning the termination are clear (recital of the language of the statute is insufficient)(§7010A(f))

Termination shall occur immediately upon:

- Non-compliance with the lease or the MHOCOA that involves conduct that caused, is causing, or threatens to cause, immediate and irreparable harm to any person or property in the community (§ 7010A(1));
- A material misrepresentation on the tenant's application, that, if the truth were known, would have resulted in the landlord's denial of the application (§7101A(3))
- Failure of a seller-tenant to notify landlord of his or her intention to sell, convey of transfer title to a buyer (§§ 7010A(a)(4), 7022(c))
- Any combination of four separate incidents of violations or failure to pay rent within a 12 month period even when corrected by the tenant (§7010A(c))
- Failure of a existing tenant or buyer to bring the manufactured home into compliance with the written standards (§§§ 7010A(5), 7020(b), 7022(f))

Termination may occur upon prior notice:

- Non-compliance with the lease or the MHOCOA which results in the disruption of the rights of others entitled to the quite enjoyment of the premises within 6 months of receiving written notice that involves substantially the same conduct specifying the basis of the conduct, and advise the tenant to cause the conduct to cease and not allow its repetition (§7010A(b)(1))
- Non-compliance with the lease or the MHOCOA based on the condition of the premises after failing to remedy such a condition within 12 days after written notice (§7010A(b)(2))
- Tendering bad checks to the landlord on two separate occasions within 12 consecutive payment periods (unless the financial institution made a mistake) (§7010A(c)(3))

Termination for failure to pay rent; required notice:

- Upon non-payment of rent and fees by the 5th day after the due date or grace period stated in the lease, the landlord must given written notice that unless the required payment is made within seven days from the date of mailing or personal service, the lease will be terminated (§7010A(b)(3))
- Rent or fees shall include the tenant's portion of the Delaware Manufactured Home Relocation Authority Assessment (§ 7012(f)(2)) but shall not include the non-payment of an optional user fee unless there is continued use of the requested facility or service without paying (§7008(g))
- The lease may be terminated immediately upon the tenant's failure to pay rent four times within 12 months (regardless of lease period) so long as the third written notice specifies that a subsequent incidence of non-compliance may result in either the immediate termination of the lease or the non-renewal of the lease at its expiration (§7010A(d))

- Upon the tenant's second failure to reimburse the landlord for a utility fee after receiving written notice (§7010A(c)(2))

Landlord's Remedy if the Tenant Remains in Possession after the Lease Termination (§ 7016)

- If a tenant continues in possession of a lot after a court has determine the landlord was entitled to possession, 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 and/or remains in possession
- If holdover done in bad faith, landlord entitled to double the periodic rent under the terminated, expired or non-renewed rental agreement

IX. SALE OF THE MANUFACTURED HOME OR THE COMMUNITY

Sale of Manufactured Home (§ 7022)

Limitations on Tenant's Right to Transfer a Manufactured Home Not Compliant with Standards

- If a seller-tenant is notified that the manufactured home is not in compliance with the written standards, he or she may attempt to bring the home in compliance (§ 7020(c))
- The landlord shall within ten days of a written request, re-evaluate the home; if the landlord willfully fails to evaluate the home in reasonable and fair manner, the tenant may be entitled to actual damages (§722(c)(6))
- If a seller-tenant does not make necessary changes to bring the manufactured home in compliance with the standards of the manufactured home community 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 (§7022(e))
- The buyer or transferee purchasing a non-compliant has three years to bring the home into compliance with the standards although the landlord may shorten this compliance period to protect life or for other safety reasons; once work begins, it must be completed within a reasonable time (§7022(e))

Limitations on Right to Assign Lease (§7022(b)&(d)(1))

- When a tenant decides to sell, convey, or transfer title of a manufactured home, the tenant may assign the tenant's existing lease to the buyer so long as the landlord accepts the new buyer or transferee as a tenant
- Landlord's acceptance or rejection must be on the same basis by which the landlord accepts or rejects any prospective tenant and any rejection must give the rejected prospective tenant a written statement that explains the cause of the rejection
- A selling tenant may not transfer the existing lease if the home does not qualify under the standards relating to resale and retention
- In the alternative, the buyer may negotiate a new lease with the landlord (§7022(d)(2))
- The tenant's election to assign or negotiate is at the tenant's sole discretion (§7022(d))

Required Notice; Landlord's Right to Purchase (§7022(c))

- A tenant who plans to sell, convey, transfer title to the home to a buyer or transferee who intends to remain in the community must provide the landlord with 3 weeks written notice prior to the scheduled sale, conveyance, or transfer of title
- The notice must provide the name and address of the prospective buyer and must clearly indicate the agreed sale price and terms
- A landlord has the right to purchase the home for 1% higher than the contract price and under the same terms and conditions
- Circumstances where the landlord does not have the right to purchase the home. § 7022(c)(5)
 - A bank, mortgage company, or any other mortgagee has foreclosed on the home;
 - Intra-family transfers;
 - The sale, transfer, or conveyance of the home is between joint tenants or tenants-in-common;
 - The transfer or conveyance is by gift, devise, or operation of law

Sale of Manufactured Home Community & Associations Right of First Offer (§ 7026)

- A landlord may decide to sell, transfer, or convey all or part of a manufactured home community
- The registered homeowner's association for the community has a right of first offer to purchase all or part of the community
- Notice requirements and the complex procedure for executing the right are set out in Section 7026.

Section 7005 Receipt

Section 7005 of Chapter 70 of Title 25 of the Delaware Code requires a landlord to provide a prospective tenant with a copy the lease, rules, standards, fee schedule of the manufactured home community, a copy of Chapter 70, and a copy of the Office of the Attorney General's Summary of Chapter 70 before renting a lot in a manufactured in a manufactured home community to the prospective tenant. The prospective tenant must acknowledge delivery by signing a receipt. The Consumer Protection Unit of the Attorney General's Office is providing this form receipt as a courtesy to landlords and prospective tenants. The landlord should retain a copy of this receipt.

I/We _____ hereby acknowledge receiving
Prospective Tenant(s) ("PT")
the following documents from _____ on _____:
Landlord Date

A copy of the written lease; _____
PT's Initials
A copy of the community rules; _____
PT's Initials
A copy of the community standards; _____
PT's Initials
A copy of the fee schedule; _____
PT's Initials
A copy of Chapter 70 of Title 25 of the Delaware Code; and _____
PT's Initials
A copy of the Attorney General's Summary of Chapter 70. _____
PT's Initials

PT's Signature Date

PT's Signature Date