DELAWARE DEPARTMENT OF JUSTICE

Office of the Manufactured Housing Ombudsperson

A SUMMARY OF THE DELAWARE MANUFACTURED HOMES AND MANUFACTURED HOME COMMUNITIES ACT

This Summary Must Be Provided to Prospective Lot Lease Tenants

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I. Introduction

a. Disclaimers

This document provides a summary of the Manufactured Homes and Manufactured Home Communities Act ("**the Act**"). It is intended to help consumers understand the laws governing manufactured home communities. This summary is not legal advice and should not be relied upon as such. As a summary, it does not contain the full information contained in the law it summarizes.

Additionally, laws can change due to actions by the legislature (i.e., passing bills that change the law) and the courts (i.e., deciding a case that affects how the law is interpreted or applied). Sometimes these changes are rapid and unexpected. Although we attempt to update this document when there is a major change in the law, we cannot guarantee that the information in this document will be current when you read it. Always confirm that you have the most recent version of both this document and the Manufactured Homes and Manufactured Home Communities Act. Links to both can be found on the web page of the Office of the Manufactured Housing Ombudsperson (see below). In addition, it can be helpful to consult with an attorney to get a better sense of your rights and responsibilities and how the law applies to your specific situation.

Lastly, this document is a summary of the Act and does not address any of the numerous additional federal, state, and local laws and regulations that may affect the rights and responsibilities of landlords and tenants under various circumstances. **This document should not be used as a complete or definitive listing of the rights and responsibilities of landlords and tenants.**

b. The Office of the Manufactured Housing Ombudsperson

The Delaware Department of Justice's Office of the Manufactured Housing Ombudsperson (the "**MHO**") serves as an additional resource for homeowners seeking information about the Act and other laws relevant to manufactured housing. Although the MHO cannot provide legal advice to individuals about specific situations, it can provide information and education about the law. The MHO also assists homeowners in resolving disputes with community owners, investigates allegations of violations of the Act, and refers appropriate matters to DOJ's Consumer Protection Unit.

The MHO can be contacted by email at manufactured.housing@delaware.gov or by phone through the Fraud and Consumer Protection Division at 800-220-5424. Additional information can be found at the MHO webpage.[1]

[1] https://attorneygeneral.delaware.gov/fraud/cpu/manuhousing/

c. The Act and How to Read Citations

The Act is located at Chapter 70 of Title 25 of the Delaware Code. Because its formal title has changed several times, it is often referred to as "Chapter 70." Because this document is a summary of the Act, it contains citations, in footnotes, to the relevant sections of the Delaware Code. An online version of the Delaware Code,[2] and an online version of the Act, are available.

There are multiple formats for legal citations for statutes. This document uses the most common Delaware statutory citation format: X *Del. C.* § Y, wherein X is the Title number and Y is the Section number. For example, Section 7008 of Title 25 is written as follows:

25 *Del. C.* § 7008

In this example, "25" is the Title number and "7008" is the Section number.

Citations can include subsections for more precision. For example, 25 *Del. C.* § 7008(a)(3) refers to Title 25, Section 7008, subsection (a)(3).

When searching for specific sections of the Code, the first digit (for 3-digit section numbers) or first two digits (for 4-digit section numbers) usually refer to the chapter in which the section can be found.[3] For example:

Sections of the form 25 *Del. C.* 70xx can be found in Chapter 70 of Title 25.

Sections of the form 25 *Del. C.* 53xx can be found in Chapter 53 of Title 25.

d. A Note About Language in the Act

For historical reasons, the Act sometimes refers to homeowners in manufactured home communities as "homeowners" and sometimes refers to them as "tenants." Similarly, community owners are sometimes referred to as "community owners" and sometimes referred to as "landlords." In order to stay consistent with the statutory language, this summary uses both sets of terms. Unless specifically noted, the terms "homeowner" and "tenant" are used interchangeably. Similarly, unless specifically noted, the terms "community owner" and "landlord" are used interchangeably.

[2] https://delcode.delaware.gov/

[3] There are parts of the Delaware Code where the beginning of the section number does not denote the chapter in which the section can be found. For example, Chapter 5 of Title 11 starts at Section 501 and ends at Section 1474. Regardless, sections numbers always increase as chapter numbers increase, so you can always find a section you are looking for with a bit of searching.

e. Definitions

Section 7003 defines some key terms used throughout the Act. It further provides that those terms not specifically defined therein should be given their ordinarily accepted meaning or the meaning implied by the context in which the terms are used.[4]

f. Purpose and Policies

The Act is intended to clarify and establish the law governing the rental of lots in Delaware and the rights and obligations of the parties. The Act is also intended to encourage community owners and residents to maintain and improve the quality of life in manufactured home communities.[5]

g. Enforcement by DOJ

The Consumer Protection Unit (CPU) of the Delaware Department of Justice has limited authority to enforce the Act, as well as limited resources. The CPU can enforce subchapters I through V of the Act (i.e., everything except rent justification and the tenant's receivership process),can file an action if a community owner has a "pattern or practice" of violating or failing to comply with the term of a lot lease, and can address some health and safety violations.[6] In rent justification, the CPU's authority is limited to enforcing the Rent Justification Act's penalty provision if community owners fail to follow the proper procedures for rent increases.[7]

h. Legal Assistance Through the Delaware Manufactured Homeowner Attorney Fund.

Homeowners in manufactured home communities in need of legal assistance may be able to get **free** help from the program funded by the Delaware Manufactured Homeowner Attorney Fund. This program, sometimes called "HB 46" after the bill that created it, can provide legal assistance for matters such as defending an eviction, addressing dangerous conditions in the community, or challenging a rent increase. The program is run through Community Legal Aid Society, Inc. (CLASI).[8] Homeowners in need of assistance should contact CLASI directly through one of the phone numbers below.

- New Castle County: (302) 575-0660
- Kent County: (302) 674-8500
- Sussex County: (302) 856-0038

[4] *See* 25 *Del. C.* § 7003.
[5] *See* 25 *Del. C.* § 7001.
[6] 25 *Del. C.* § 7005.
[7] 25 *Del. C.* § 7055.
[8] http://www.declasi.org/

II. What the Act Covers

a. Jurisdiction

The Act applies to anyone who owns, uses, manages, or possesses real estate in Delaware. The Delaware Residential Landlord-Tenant Code,[9] applies to manufactured home lot rent agreements, except when displaced by a relevant provision of the Act.[10]

The Act only applies when a homeowner owns the home and rents the lot on which the home sits from the community owner.[11] If the home itself is rented (either from a homeowner or from the community owner), the relationship is governed by the Residential Landlord-Tenant Code.[12]

Many of the provisions of the Act only apply if the home in question is located in a "manufactured home community" as defined by Section 7003(13). A 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."[13]

b. Exemptions

Lot leases for recreational vehicles are not covered by the Act unless the vehicles are (1) located in a manufactured home community, (2) the primary residence of the tenants, and (3) immobile and have been immobile since the tenants obtained title to the vehicle.[14] There are some additional limitations on the protections provided to recreational vehicles.[15]

Lot leases at "seasonal properties" are excluded from subchapters I through V of the Act.[16] A seasonal property is "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" and is "characterized by a lack of availability of year-round utilities and by the fact that its tenants have primary residences elsewhere."[17]

Resident-owned communities and "deed subject to lease communities"[18] are exempt from subchapter VI of the Act.[19] This subchapter lays out the requirements for rent increases in manufactured home communities.

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[9] 25 *Del. C.* §§ 5101-5907.
[10] *See* 25 *Del. C.* § 7002.
[11] 25 *Del. C.* § 7002.
[12] 25 *Del. C.* § 7002(c).
[13] 25 *Del. C.* § 7003(13).
[14] 25 *Del. C.* § 7003(12)b.
[15] 25 *Del. C.* § 7003(12)c.
[16] 25 *Del. C.* § 7004(b).
[17] 25 *Del. C.* § 7003(24).
[18] A "deed subject to lease community" is a relatively rare type of 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. 25 *Del. C.* § 7056(b).
[19] 25 *Del. C.* § 7056.

III. Rental Applications

a. Required Disclosures by the Community Owner

When a community owner provides a prospective tenant with a lot rental application, the landlord must also provide the prospective tenant with: (1) a copy of the proposed rental agreement, (2) the community rules, (3) the community's fee schedule, (4) a copy of the Manufactured Home and Manufactured Home Communities Act, and (5) a copy of this summary of the Act.[20]

b. Application Fees

Community owners may assess an application fee that that does not exceed 10 percent of the monthly rent or $50, whichever is greater. Landlords must provide a receipt. If a landlord demands an application fee in excess of the amount allowed, the tenant is entitled to double the fee in damages.[21]

[20] 25 *Del. C.* § 7006.
[21] 25 *Del. C.* § 7020(d).

IV. Contents of a Lot Lease

a. Required Provisions

Lot leases in manufactured home communities **must** contain **all** the following provisions:[22]

1. Identification of the rented lot.
2. A statement of the total annual rent.
3. The term of the rental agreement (i.e., when it starts and ends)
4. A statement of the terms for rent payments (which are typically monthly unless otherwise agreed to by the parties).
5. An explanation of the community's late fee policy, if one exists.
6. A listing of each additional fee or charge in a manner that identifies the service provided for such fee or charge.
7. The name and address of the landlord or agent for receiving notice or service of process.
8. The name and location of the FDIC insured institution where security deposits are kept.
9. A services rider describing each utility, facility, and service provided by the landlord. The services rider must clearly indicate the financial responsibility of the landlord and of the tenant for installation, maintenance, and related fees and charges.
10. A rental agreement summary that must contain:
    a. A brief description of the home
    b. The specific rented lot
    c. The amount of the annual rent and monthly payment amount
    d. 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. Any additional fees
    i. The amount of the security deposit; and
    j. The rent charged for the last three years.
11. The ways in which the lease can be terminated.
12. A specific reference to the Act as the law governing the agreement.
13. Provisions **Requiring the Landlord** to:
    a. Regrade the lot where necessary to prevent the accumulation of standing water (that persists more than 48 hours after the end of a rainstorm). Note, this provision does not apply to areas defined by local, state, or federal regulations as wetlands, flood plains, tidal areas, water recharge areas, or recorded drainage systems;
    b. Maintain the community in a manner that protects the health and safety of residents, visitors, and guests;
    c. Identify each lot so tenants can identify their area of responsibility;
    d. Keep the community free from noxious or harmful plants and weeds;

[22] 25 *Del. C.* § 7008(a).

e. Make a good faith effort to exterminate insect, rodent, vermin, and pest infestations of the common areas;
f. Maintain all utilities the landlord provides in good working order, and to repair those utilities and services within 48 hours after written notice, or as soon as practicable;
g. If applicable, specify whether sceptic systems shall be maintained by the landlord or tenant;
h. Respect the privacy of residents and not enter homes without permission except in emergency circumstances. Note, the landlord may, with 72 hours' notice, inspect any utility connections that the landlord owns or has a responsibility to maintain;
i. Maintain community roads in good condition;
j. Comply with federal, state, and local building codes;
k. Allow the tenant freedom of choice in purchase of goods and services. Note that this subsection does not apply to utilities and related services, which are governed by a different subsection; and
l. Maintain, care for, and remove (when necessary) trees that are at least 25 feet high or that have a trunk larger than 6 inches in diameter.
    - Note, the landlord has no responsibility for leaves, needles, pine cones, sap, pods, seed containers, *etc*.

14. Provisions **Requiring the Tenant** to:
    a. Keep the rented lot and exterior of the home clean and sanitary;
    b. Refrain from storing building materials, furniture, or similar items outside;
    c. Dispose of rubbish, garbage, and waste in a clean and sanitary manner;
    d. Abide by all reasonable written rules; and
    e. Abide by all reasonable written manufactured home standards.

b. Prohibited Provisions

Lot leases in manufactured home communities may **not** contain provisions that do any of the following.[23]

1. Authorizing a person to confess judgement on a claim arising out of the rental agreement.
2. Waiving or forgoing any right or remedy that is provided to the tenant by law.
3. Waiving a tenant's right to jury trial.
4. Authorizing the landlord to take possession of the rented lot or the tenant's property without formal legal process.
5. Authorizing the landlord to collect a fee for a late rent payment without providing the tenant a five-day grace period after the due date to remit the full payment.
6. Establishing late fees exceeding $25 or 5% of the rental payment (whichever is greater).
7. Allowing the landlord to charge an amount in excess of one month's rent for a security deposit (unless mutually agreed to), or to retain the security deposit at the termination of

[23] 25 *Del. C.* § 7008(b).

the rental agreement when the tenant has paid all rent, fees, or charges in full and has caused no damage to the landlord's property.

8. Allowing the landlord to collect a deposit in excess of one normal billing period for any government mandated charge that the landlord would ultimately be responsible for if the tenant failed to pay. If the tenant pays the mandated charge, the landlord must return the deposit at termination of the lease.
9. Forbidding the tenant from terminating the lot lease agreement upon a minimum of 30 days' notice when:
    a. The tenant incurs a change in employment and consequently commutes 30 miles further than his or her previous commute.
    b. Forbidding a tenant from terminating the lease with less than 30 days' notice when the tenant is in the U.S. armed forces and receives reassignment orders which do not allow for at least 30 days' notice.
10. Waiving any cause of action or indemnity claim against a landlord for injury or harm to tenants, residents, guests, or visitors caused by the negligence of the landlord or the landlord's agents in the course of performance of the landlord's obligations under the lot lease agreement.
11. Denying 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 if 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. **This provision does NOT permit a tenant to withhold rent while continuing to have possession of the rental space.**
    a. Terminating the rental agreement means that the tenant gives notice and leaves the rental space.
12. Forbidding the tenant from displaying a for-sale sign for the manufactured home.
    a. The landlord may establish reasonable limitations for the number, size, and placement of signs.
13. Unreasonably limiting the tenant's freedom of choice for the purchase of goods and services.
    a. The landlord is not required to allow service vehicles to have access to the community in such numbers or such frequency that they create a danger or damage the community infrastructure beyond normal wear and tear.
    b. The landlord may restrict trash collection to a single provider.
    c. The landlord may select shared utilities for the community.
14. Providing for the recovery of attorneys' fees by either party in a legal dispute involving the tenancy.
15. Violating federal, state, or local law.
16. Requiring tenant to:
    a. Sell or transfer home to the landlord.
    b. Buy the home from the landlord.

c. Sell the home through services of the landlord.

17. Requiring tenant to provide landlord with a key to tenant's home or associated structures.
18. Controlling the use of satellite dishes or television antennas in a manner that conflicts with federal law or FCC regulations.
19. Requiring the tenant to use automatic debit for rent payments.
20. Granting landlord option or right of first refusal to purchase tenant's manufactured home.
21. Providing liquidated damages for the landlord's breach of the agreement.
22. Terminating the lease due to the death of any tenant, including one terminating the lease upon the death of the last remaining tenant.

c. Penalties for Improper Leases and Lots

A landlord who offers a lot for rent in a community that does not conform to governing state and local law may be fined up to $1,000 (and may also be liable for damages suffered by the tenant).[24] A court that finds that the landlord omitted a mandatory provision or included a prohibited provision will order the landlord to provide all affected tenants with an amended agreement or corrective addendum (via certified mail) within 30 days of the exhaustion of the final appeal.[25] In such cases, the landlord is liable for actual damages and court costs. If the landlord's violation was willful, the landlord may be liable for damages equal to three months' rent.[26]

d. Lease Term

Lot rental agreements have a one-year term unless (1) a different duration is agreed to by the parties **and** (2) the different duration is designated in writing in the rental agreement.[27]

e. Rent Payments

i. Lump Sum Payments

Lot leases in manufactured home communities must include rent payments of equal dollar amounts or as close thereto as possible. Landlords may not require tenants to pay their rent in one lump sum.[28]

Tenants may request to pay in annual, semi-annual, or quarterly payments, and landlords may agree to such payments. In addition, landlords may offer discounts as incentives to tenants who pay annually, semi-annually, or quarterly as long as it is clear to the tenants that they are not required to pay in any way except monthly.[29]

[24] 25 *Del. C.* § 7008(g).
[25] 25 *Del. C.* § 7008(h).
[26] 25 *Del. C.* § 7008(i).
[27] 25 *Del. C.* § 7009.
[28] 25 *Del. C.* § 7010(a).
[29] 25 *Del. C.* § 7010(a).

ii. Cash Receipts

If a community owner accepts cash payments for rent, the community owner must provide the tenant with a receipt for the cash payment within 3 days of receiving payment. The community owner must keep records of cash receipts for 3 years.[30]

f. Security Deposits

Landlords may require a security deposit under the terms of the rental agreement.[31] The security deposit may not exceed one month's rent unless the tenant agrees to a larger security deposit and the larger amount is specified in writing in the rental agreement.[32]

If the rental agreement so specifies, the security deposit can be increased when the rent increases. If the increase exceeds 10 percent of the monthly rent, the tenant may spread the increase payments over a period not to exceed 12 months. For month-to-month leases, the increase may be paid over 4 months.[33]

Security deposits must be held in escrow in a Delaware deposit-taking bank identified in the rental agreement. Tenants must be notified of any changes to the account's location.[34]

Security deposits may only be used to:

- reimburse the landlord for damages caused by the tenant that exceed normal wear and tear;
- to pay rent, fees, or other arrearages owed by the tenant; or
- to reimburse the landlord for reasonable expenses incurred if the tenant prematurely terminates the rental agreement unless the premature termination is pursuant to one of the grounds listed in the Act.[35,36]

Security deposits, minus any appropriate deductions, must be returned to tenants within 20 days from the end of the rental agreement. If the landlord makes deductions from the security deposit, the landlord must send the tenant an itemized list of damages with an estimated repair cost for each item. Failure to do so is considered an acknowledgment by the landlord that no payment for repairs is due. A tenant's acceptance of the money sent by the landlord is considered an acceptance of any deductions for damages unless the tenant objects *in writing* within 10 days.[37]

If the landlord fails to send the tenant the security deposit within 20 days of the expiration of the lease, the tenant is entitled to double the amount of money wrongfully withheld.[38] If the

[30] 25 *Del. C.* § 7010(b).
[31] 25 *Del. C.* § 7017(a)(1).
[32] 25 *Del. C.* § 7017(a)(2).
[33] 25 *Del. C.* § 7017(i).
[34] 25 *Del. C.* § 7017(b)(1).
[35] 25 *Del. C.* § 7021.
[36] 25 *Del. C.* § 7017(c).
[37] 25 *Del. C.* §§ 7017(d), (e).
[38] 25 *Del. C.* § 7017(f)(1).

tenant does not provide a forwarding address, the landlord is not required to send notice and will not owe double the security deposit.[39] The landlord must still return the security deposit if the tenant makes a written claim for it within one year.[40]

If a landlord fails to disclose the location of the security deposit within 20 days of receiving a written request, or if the deposit is not kept in an appropriate bank, the security deposit must be forfeited to the tenant. Failure to return the deposit within 20 days of the forfeiture entitles the tenant to double the amount of the security deposit.[41]

g. Pet Deposits

Pet deposits are a type of security deposit, and the rules for security deposits apply to them.[42] Landlords may only charge a separate pet deposit if allowed in the rental agreement.[43] The pet deposit may not exceed one month's rent unless the tenant agrees to the amount in the rental agreement.[44] Damage caused by pets must be deducted from the pet deposit before it is deducted from the security deposit.[45]

Pet deposits cannot be charged for support animals for persons with disabilities who are residents of the community.[46]

[39] 25 *Del. C.* § 7017(g).
[40] 25 *Del. C.* § 7017(g).
[41] 25 *Del. C.* § 7017(f)(2).
[42] 25 *Del. C.* § 7017(h)(2).
[43] 25 *Del. C.* § 7017(h)(1).
[44] 25 *Del. C.* § 7017(h)(3).
[45] 25 *Del. C.* § 7017(h)(1).
[46] 25 *Del. C.* § 7017(h)(4).

V. Community Rules

a. Issuance

The Landlord may create rules in the community. Such rules must be reasonable and must be in writing.[47] A copy of the rules must be provided to new tenants,[48] and any changes to rules must be provided to tenants in writing.[49] Any rule must serve one or more of the following purposes:

- Promoting the health, safety, or welfare of tenants, residents, guests, or visitors
- Promoting the residents' quiet enjoyment of the community
- Preserving the property values of the tenants or landlord
- Promoting the orderly and efficient operation of the community
- Preserving the tenants' or landlords' property from abuse.[50]

b. Enforcement

Community rules may not be enforced arbitrarily or capriciously. A landlord may choose not to enforce a rule based upon (a) the documented special needs or (b) hardship of a tenant or resident. Doing so does not waive the landlord's right to enforce the rule in other circumstances.[51]

c. Amendments

The landlord may amend rules at any time, but an amended rule will not take effect until 60 days from written notice to the tenants, or later if specified in the rule.[52]

Within 10 days of the notice of an amended rule, the tenants may select a committee to meet with the landlord to discuss the rule.[53] The landlord must then meet with the committee, disclose and explain all material factors, and present any supporting documentation for the amended rule.[54]

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[47] 25 *Del. C.* § 7018(a).
[48] 25 *Del. C.* § 7006.
[49] 25 *Del. C.* § 7018(c).
[50] 25 *Del. C.* § 7018(a).
[51] 25 *Del. C.* § 7018(b).
[52] 25 *Del. C.* § 7018(c).
[53] 25 *Del. C.* § 7018(c)(1).
[54] 25 *Del. C.* § 7018(c)(2), (3).

VI. Home Standards

a. Types of Standards

i. For Homes Being Moved into the Community

The landlord may have standards for homes entering into the community. The standards must be reasonable and in writing. The standards may relate to the size, age, quality, appearance, construction materials, and safety features of the home.[55]

ii. For Existing Homes Not for Sale

Tenants living in the community at the time a standard is issued have 9 years to bring their homes into compliance with the standard. If the change is required to protect life or for other safety reasons, a shorter deadline is allowed.[56]

iii. For Existing Homes Being Sold or Transferred

The landlord may adopt reasonable, written standards regarding resale or transfer of homes intended for retention in the community.[57] The standards may only relate to: appearance, maintenance, safety, and compliance with the relevant state, local, and federal codes. Age of the home may not be the exclusive or dominant criterion.[58] When a tenant notifies the landlord that they intend to sell the home, the landlord may conduct an exterior inspection to ensure that the home complies with the standards for retention in the community.[59] Additional information about this process can be found in Section XXI.a, below.

b. Enforcement

Home standards may not be enforced arbitrarily or capriciously. A landlord may choose not to enforce a standard based upon (a) the documented special needs or (b) hardship of a tenant or resident without waiving the right to enforce the rule later as to that tenant or resident or any other tenant or resident.[60]

c. Amendments

The landlord may amend home standards at any time, but the home standard does not take effect until the later of (a) the date specified in the amended home standard or (b) 60 days from the date the landlord delivers written notice of the home standard to the tenants.[61]

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[55] 25 *Del. C.* § 7007(a)(1).
[56] 25 *Del. C.* § 7007(b).
[57] 25 *Del. C.* § 7007(c).
[58] 25 *Del. C.* § 7007(c)(1).
[59] 25 *Del. C.* § 7007(c)(2).
[60] 25 *Del. C.* § 7007(d).
[61] 25 *Del. C.* § 7007(e).

Within 10 days of the notice of an amended home standard, the tenants may select a committee of up to 5 people to meet with the landlord to discuss the rule.[62] The committee and landlord must then meet, and the landlord must disclose and explain all material factors and present any supporting documentation for the amended rule.[63]

VII. Fees and Utilities

a. Disclosure Required

A copy of the community's fee schedule must be provided to prospective tenants at the time the prospective tenant applies for tenancy in the community.[64]

b. Prohibited Fees

The Act prohibits certain types of fees:

- Entrance and Exit Fees are Prohibited.[65]
    - An entrance fee is any fee is any fee assessed before the tenant occupies the lot other than a security deposit, application fee, disclosed fees for utilities or direct services actually rendered of for the use of facilities.
    - An exit fee is any fee assessed immediately prior to or after the tenancy has ended except for fees or charges for direct services rendered that would not normally have been provided without charge.
- Attorneys' Fees are Prohibited. Lot leases may not contain any term allowing either party to recover attorneys' fees in any action related to the tenancy.[66]

c. Fees for Services Provided to Tenant

Landlords may assess fees for services provided to the tenant or for expenses incurred as a direct result of the tenant's use of the premises. If a fee is to be assessed because the tenant fails to perform a duty required under the lease, the landlord must notify the tenant of the failure and provide the tenant with 5 days to correct the situation.[67]

d. Optional User Fees

Landlords may assess optional user fees for the use of specific facilities or services such as swimming pools, marine facilities, or tennis courts. Unlike other fees, a failure to pay an optional user fee cannot be used as a basis to terminate the tenant's lease.[68]

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[62] 25 *Del. C.* § 7007(e)(1).
[63] 25 *Del. C.* § 7007(e)(2), (3).
[64] 25 *Del. C.* §§ 7006, 7020(b).
[65] 25 *Del. C.* § 7020(k).
[66] 25 *Del. C.* § 7008(b)(14).
[67] 25 *Del. C.* § 7020(c).
[68] 25 *Del. C.* § 7020(g).

The amount of an optional user fee must be reasonably related to the cost of provided the associated facility or service.[69]

e. Late Payment Fees

Late payment fees are permissible if allowed in the rental agreement.[70] Late payment fees may not exceed the greater of $25 or 5% of the monthly rent.[71] In addition, late payment fees cannot be assessed until at least 5 days after the date that the rent is due.[72,73]

f. Utility Charge and Fee if Homeowner Fails to Pay Utility Charge

If a landlord pays a tenant's utility charge to a third party because the tenant fails pay it, the charge is considered a pass-through utility charge. In addition to the charge, including a late charge, the landlord may charge the tenant a third-party payment fee not to exceed the greater of $25 or 5% of the total payment made by the landlord.[74]

g. Utilities Provided by the Community Owner

i. Permitted Charge

Landlords may charge tenants for utilities provided by the landlord by the terms of the rental agreement, but the rate charged for such fees may not exceed the utility's retail rate.[75]

ii. Discontinuation of Utilities, Facilities, or Services

If a landlord stops providing a utility, facility, or service that was previously provided under the lease, the landlord must reduce the rent, charge, or fee payment by an amount equal to the landlord's direct operating costs of providing the discontinued utility, facility, or service.[76] The amount of the reduction must be determined by an independent public accountant or certified public accountant paid for by the landlord.[77]

The landlord must provide at least 60 days' notice prior to terminating the provision of a utility, facility, or service.[78] Tenants have the right to form a committee to discuss the discontinuance with the landlord.[79]

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[69] 25 *Del. C.* § 7020(h).
[70] 25 *Del. C.* § 7020(f)(2).
[71] 25 *Del. C.* § 7008(b)(6).
[72] 25 *Del. C.* § 7008(b)(5); 25 *Del. C.* § 7020(f)(1).
[73] Because the landlord cannot charge a late fee "without allowing the tenant to remit the monthly rent in full a minimum of 5 days beyond the date the rent is due." 25 *Del. C.* § 7008(b)(5), a late fee for rent due on the first of the month cannot be assessed until the seventh of the month. The rent is "due" on the first, and the second through the sixth are the "5 days beyond" that date.
[74] 25 *Del. C.* § 7020(e).
[75] 25 *Del. C.* § 7020(j).
[76] 25 *Del. C.* § 7020(l).
[77] 25 *Del. C.* § 7020(l)(2).
[78] 25 *Del. C.* § 7020(l)(1).
[79] 25 *Del. C.* § 7020(l)(2), (3).

h. Changes to Fees

Except for utility rates, fees may not be increased more than once in any 12-month period, and the landlord must provide notice at least 60 days before any increase takes effect.[80] Utility rates may be adjusted on a monthly basis and without notice but cannot exceed the utility's retail consumer rate.[81]

[80] 25 *Del. C.* § 7020(i).
[81] 25 *Del. C.* § 7020(j).

VIII. Lease Renewal and Termination

a. Automatic Renewal

Unless terminated by one of the methods permitted under the Act, lot leases renew automatically at the expiration of their term.[82] The leases renew "for the same duration and with the same terms, conditions, and provisions as the original agreement" except for (1) modifications mutually agreed to by both parties, and (2) the amount of rent.[83,84]

b. Termination by the Homeowner

i. At End of Term if the Home is Being Removed From the Lot

If the homeowner is going to remove the home from the lot at the end of the lease term, the tenant may terminate the lease by providing written notice to the landlord at least 60 days prior to the end of the lease term. The parties can agree to a shorter or longer notice period.[85] This does not apply to a tenant who intends to sell the home,[86] because the lease will automatically transfer or terminate upon sale of the home.[87]

ii. In the First Month of Tenancy

The tenant may terminate a lot lease in the first month of a tenancy if the landlord "fails to substantially comply with the provisions of a rental agreement, or if there is material noncompliance with any laws or regulations governing the landlord's maintenance or operation of the community. The one-month period is extended if the tenant remains on the lot in reliance on a written promise by the landlord to correct the conditions that would otherwise justify the termination of the lease.[88]

If the condition was caused by the landlord, the tenant may recover damages which may include the cost to obtain adequate substitute housing.[89]

iii. In the First 18 Months of Tenancy

If a landlord or representative of the landlord intentionally misrepresents a material fact regarding the community, the services provided therein, or a provision of the lease in an advertisement or document for the purpose of inducing the tenant to enter into a lease, and the tenant reasonably relies on the representation to the tenant's detriment, the tenant may terminate the lease within 18 months of the execution of the lease.[90]

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[82] 25 *Del. C.* § 7009(b).
[83] Rent modifications are subject to the provisions of Subchapter VI of the Act. 25 *Del. C.* §§ 7050-7056.
[84] 25 *Del. C.* § 7009(c).
[85] 25 *Del. C.* § 7009(b)(1).
[86] 25 *Del. C.* § 7009(b)(1).
[87] *See* 25 *Del. C.* § 7013.
[88] 25 *Del. C.* § 7021(a).
[89] 25 *Del. C.* § 7021(d).
[90] 25 *Del. C.* § 7021(e).

iv. If the Homeowner is Denied the "benefit and enjoyment of the bargain"

If the tenant is deprived "a substantial part of the benefit and enjoyment of the bargain pursuant to the rental agreement," and the landlord does not fix the condition within 15 days of being given written notice by the tenant, the tenant may terminate the lease. If the condition makes the premises uninhabitable or possesses an imminent threat to the health, safety, or welfare of the tenant, no notice is required.[91]

v. Special Provisions for Changes in Employment and Members of the Armed Forces

Lot leases cannot contain provisions that prohibit tenants from terminating the lease with 30 days' notice if a change in the location of the tenant's current employment causes the tenant to commute at least 30 miles farther than their former commute from the community.[92]

Lot leases cannot contain provisions that prevent members of the armed forces from terminating their lease with less than 30 days' notice if the tenant receives reassignment orders that do not allow for 30 days' notice.[93]

c. Termination by Community Owner

Community owners may only terminate or refuse to renew lot leases if "due cause" exists.[94] Due cause is either a change in land use,[95] or tenant noncompliance with the lease.[96]

i. Change in Land Use

If the landlord intends to change the use of the land on which the community, or the portion thereof, the landlord must give all affected tenants at least one year's notice prior to terminating the tenants' leases. The landlord may not increase the rent after providing notice of an intended change in land use.[97]

Along with the notice, the landlord must provide a relocation plan to the tenants.[98] The plan must contain specific information,[99] must be provided to the Delaware Manufactured Home Relocation Authority,[100] and muse be updated every three months.[101]

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[91] 25 *Del. C.* § 7021(b).
[92] 25 *Del. C.* § 7008(b)(9).
[93] 25 *Del. C.* § 7008(b)(9).
[94] 25 *Del. C.* § 7009(b)(2).
[95] 25 *Del. C.* § 7024.
[96] 25 *Del. C.* § 7016.
[97] 25 *Del. C.* § 7024(b)(1).
[98] 25 *Del. C.* § 7024(b)(3).
[99] 25 *Del. C.* § 7024(b)(3).
[100] 25 *Del. C.* § 7024(b)(4).
[101] 25 *Del. C.* § 7024(b)(5).

A community owner who provides notice to tenants of a change in land use but does not in good faith intend to change the use of the land is subject to penalties.[102]

ii. Homeowner Noncompliance with the Lease, Rules, or Home Standards

A landlord may terminate or decline to renew a rental agreement if the tenant does not comply with the terms of the agreement.[103] The landlord may terminate the lease immediately upon providing written notice if the noncompliance was the result of:

- Clear and convincing evidence that the tenant or a resident of the home caused, is causing, or threatens to cause immediate and irreparable harm to any person or property in the community.[104]
- Conviction or a crime or adjudication of delinquency committed by a tenant or resident of the home, the nature of which caused immediate or irreparable harm to any person or property in the community.[105]
- Clear and convincing evidence of a material misrepresentation in the tenant's application for tenancy that, if known at the time, would have resulted in denial of the application.[106]
- Failure to provide the community owner with proper notice prior to selling or transferring title to the manufactured home wherein the transferee intends to keep the home in the community.[107]
- Failure to bring the home into compliance with written home standards.[108]

In order to terminate a lease due to a tenant's, resident's, or a guest or visitor of a tenant's or resident's noncompliance with the terms of the lease disrupts the rights of others entitled to the quiet enjoyment of the premises that does not rise to the level of permitting immediate termination, the landlord must send written notice to the tenant.[109] The notice must:

- Inform the tenant to immediately cause the conduct to cease;
- Specify the conduct that formed the basis for the notice; and
- Inform the tenant that if substantially similar conduct occurs within six months, the landlord may immediately terminate the lease and seek summary possession of the lot.[110]

[102] 25 *Del. C.* § 7024(c).
[103] 25 *Del. C.* § 7016.
[104] 25 *Del. C.* § 7016(a)(1).
[105] 25 *Del. C.* § 7016(a)(2).
[106] 25 *Del. C.* § 7016(a)(3).
[107] 25 *Del. C.* § 7016(a)(4).
[108] 25 *Del. C.* § 7016(a)(5).
[109] 25 *Del. C.* § 7016(b)(1).
[110] 25 *Del. C.* § 7016(b)(1).

In order to terminate a lease due to noncompliance based on a condition of the home or lot, the landlord must notify the tenant in writing.[111] The notice must:

- Specify the condition constituting the compliance;
- Give the tenant at least 12 days from the date of mailing or service of the notice to remedy the noncompliance; and
- Inform the tenant that if the tenant fails to remedy the noncompliance, the landlord may immediately terminate the rental agreement and seek summary possession of the lot.[112]

In order to terminate a lease due to a failure to pay rent by the fifth day after the due date (or the grace period provided for in the lease, if it is longer), the landlord must send the tenant notice that the landlord may terminate the lease and seek summary possession of the lot if payment is not made within seven days of the date of mailing or service of the notice.[113]

In addition to the above, the landlord may terminate the lease and seek summary possession of the lot if there are repeated instances of noncompliance.[114] "Repeated instances of noncompliance" includes any of the following:

- Four occasions within 12 months wherein the tenant failed to make the rental payment by the end of the grace period.[115] The landlord must inform the tenant after the third incident that another incident may result in the termination of the lease.[116]
- Two occasions within 12 months wherein the tenant failed to reimburse a landlord within 7 days of receiving notice that the landlord paid a utility charge for the tenant.[117]
- Two occasions within 12 months wherein the tenant's bank draft or check is dishonored by a financial institution for any reason other than a mistake by the financial institution.[118]
- Four separate incidents of noncompliance based on either the behavior of tenants, guests, or visitors or the condition of the premises within 12 months.[119]
- Any combination of four incidents of noncompliance within 12 months.[120]

Notices sent to the tenant stating that the lease is terminated or will be terminated or not renew must specify the reasons for the termination or nonrenewal in sufficient detail so that the relevant

[111] 25 *Del. C.* § 7016(b)(2).
[112] 25 *Del. C.* § 7016(b)(2).
[113] 25 *Del. C.* § 7016(b).
[114] 25 *Del. C.* § 7016(c).
[115] 25 *Del. C.* § 7016(c)(1).
[116] 25 *Del. C.* § 7016(d).
[117] 25 *Del. C.* § 7016(c)(2).
[118] 25 *Del. C.* § 7016(c)(3).
[119] 25 *Del. C.* § 7016(c)(4).
[120] 25 *Del. C.* § 7016(c)(5).

dates, places, or circumstances are clear.[121] The landlord's right to terminate or refuse to renew a lease does not arise until the landlord has complied with the relevant notice provisions.[122]

d. Holdover Tenancies

Tenants who remain on the rented lot after their rental agreement has been terminated are considered "holdover" tenants.[123] If a court finds that a landlord is entitled to possession of a lot because of a holdover by a tenant, the court may award the landlord twice the periodic rent under the lease if the holdover was in bad faith.[124] If the holdover was in good faith, the court may only award the periodic rent.[125] In either case, the rent is prorated for each day the tenant remained in possession after the end of the lease.[126]

[121] 25 *Del. C.* § 7016(f).
[122] 25 *Del. C.* § 7016(g).
[123] 25 *Del. C.* § 7003(8).
[124] 25 *Del. C.* § 7011(1).
[125] 25 *Del. C.* § 7011(2).
[126] 25 *Del. C.* § 7011.

IX. Health and Safety Violations

a. Unsafe Conditions

An unsafe condition is "a condition within a manufactured home community that threatens or has threatened the life, health, or safety of a resident, visitor, or guest of the manufactured home community."[127]

b. Failures of Water, Sewer, Septic, Gas, or Electricity

If water, sewer, or septic services supplied by the community owner or gas or electric services distributed by the community owner are not supplied safely, or if the community owner receives "official notice" of an unsafe condition from a government agency, the community must do one of the following:

1. Fix the problem within 10 days; or
2. Do all of the following:
    a. Provide written documentation that there were meaningful efforts to fix the problem within 10 days.
    b. Provide a written detailed explanation of the efforts taken to fix the problem within 10 days, the reasons why the problem could not be fixed within 10 days, and the anticipated date the problem will be fixed. This explanation must be sent to every affected resident, the HOA (if one exists), the Delaware Manufactured Home Relocation Authority, the Delaware Manufactured Homeowners Association, and the Attorney General.
    c. Provide a surety bond payable to the Delaware Manufactured Home Relocation Authority in an amount at least equal to 150% of the estimated cost to fix the problem.
    d. Send updates to everyone listed in (b) above every 30 days until the repair is completed.
    e. Send notification to everyone listed in (b) above when the unsafe condition is fixed. If the community owner received official notice of the condition from a government agency, they must also send a copy of this notification to that agency.[128]

c. Special Rules for Provision of Water

If the unsafe condition involves a failure to provide safe water, the community owner must either provide all residents with drinkable water (e.g., bottled water) until the problem is fixed or provide alternative suitable housing for the residents until the problem is fixed.[129]

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[127] 25 *Del. C.* § 7003(29).
[128] 25 *Del. C.* § 7020A.
[129] 25 *Del. C.* § 7020A(c).

X. Rent Increases

All rent increases in manufactured home communities are subject the provisions Subchapter VI of the Act,[130] except for resident owned communities and "deed subject to lease" communities.[131] Rent may not be increased more than once every 12 months.[132] **There were significant changes to rent increase procedures in 2022 and again in 2024.** These changes are currently set to roll back on July 1, 2027, but they could be made permanent by the Legislature.

a. Rent Increase Notices

Community owners must send written notice of rent increases at least 90 days, but no more than 120 days, before the rent increase is scheduled to take effect.[133]

b. Health and Safety Violations

An unsafe condition is "a condition within a manufactured home community that threatens or has threatened the life, health, or safety of a resident, visitor, or guest of the manufactured home community."[134] If an "unsafe condition" exists, the community owner cannot increase the rent,[135] unless the condition was corrected and the community owner followed the statutorily-required notice procedures.[136] An unsafe condition is presumed to exist if the community owner receives "official notice" of the condition from a government agency.[137] If a community owner has received "official notice" of an "unsafe condition," they can file a case in the Justice of Peace Court to prove that the condition did not exist.[138] Similarly, if an "unsafe condition" exists, but there has been no "official notice," tenants or their HOA can file a case in the Justice of the Peace Court to prove that the condition exists.[139]

c. CPI-U Rent Increases

With two exceptions discussed below, rent increases are tied to inflation, specifically to the 24-month average of the Consumer Price Index – Urban ("CPI-U").[140] The process for these rent increases is explained below. The community owner calculates the rent increase and includes the amount in the rent increase notice. Under most circumstances, CPI-U rent increases

[130] 25 *Del. C.* §§ 7050-7056.
[131] 25 *Del. C.* § 7056.
[132] 25 *Del. C.* § 7051.
[133] 25 *Del. C.* § 7051(c)(1).
[134] 25 *Del. C.* § 7003(29).
[135] 25 *Del. C.* § 7051A(a).
[136] 25 *Del. C.* §§ 7020A, 7051A(b).
[137] 25 *Del. C.* §§ 7020A, 7051A(b).
[138] 25 *Del. C.* § 7051A(f).
[139] 25 *Del. C.* § 7051A(c).
[140] 25 *Del. C.* § 7052A.

will be limited to 6.1%.[141] Homeowners **cannot** challenge CPI-U rent increases through the Rent Justification Arbitration Process.

Steps in calculating a CPI-U rent increase:

1. The CPI-U is provided by the Delaware Manufactured Home Relocation Authority.[142]
2. Determine the "Calculated Rent Increase."[143]
   a. If the CPI-U is 6.1% or less, the Calculated Rent Increase is 3.5% plus half the CPI-U.[144]
   b. If the CPI-U is more than 6.1%, the Calculated Rent Increase is equal to the CPI-U.[145]
3. Determine the actual rent increase:
   a. If the Calculated Rent Increase is less than 6.1%, the actual rent increase is equal to the Calculated Rent Increase.
   b. If the Calculated Rent Increase is more than 6.1% but not more than 8%, the actual rent increase is equal to 6.1%.[146]
   c. If the Calculated Rent Increase is more than 8%, the actual rent increase is equal to 6.1% plus half of the difference between the Calculated Rent Increase and 6.1%.[147]
4. If the actual rent increase is less than the Calculated Rent Increase, the difference between the two can be carried over for a future rent increase. This "carryover rent increase"[148] is not applied to the rent but can be applied in the future per the following step.[149]
5. If there is carryover rent increase from prior years, and the actual current year rent increase is less than 6.1%, the actual current year rent increase can be increased by the **lesser** of (1) the amount of carryover rent increase from prior years or (2) the amount of carryover rent increase that will increase the actual rent increase to 6.1%.[150] Any carryover rent increase that cannot be applied rolls over and can be applied in later years.

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[141] 25 *Del. C.* § 7052A.
[142] 25 *Del. C.* § 7052A(c)(1)b.
[143] "Calculated Rent Increase" is not a term from the statute. It is used here as a shorthand for "the possible rent increase calculated under 25 *Del. C.* § 7052A(c)(2) that may not be the actual rent increase due to 25 *Del. C.* § 7052A(c)(3) and 25 *Del. C.* § 7052A(c)(4).

[144] 25 *Del. C.* § 7052A(c)(2)a.
[145] 25 *Del. C.* § 7052A(c)(2)b.
[146] 25 *Del. C.* § 7052A(c)(3)a.
[147] 25 *Del. C.* § 7052A(c)(3)b.
[148] "Carryover rent increase" is not a term from the statute. It is used here as shorthand for the portions of rent increases that cannot be implemented due to 25 *Del. C.* § 7052A(C)(3) but that can be applied in future years per 25 *Del. C.* § 7052A(c)(4).
[149] 25 *Del. C.* § 7052A(c)(4).
[150] 25 *Del. C.* § 7052A(c)(4).

Sample CPI-U Rent Increases:

1. CPI-U = 2.0%
   a. Calculated Rent Increase = 3.5% + ½(2%) = 4.5%
   b. Actual rent increase = 4.5%
   c. Up to 1.6% carryover rent increase can be added if it exists from prior years.
2. CPI-U = 5.0%
   a. Calculated Rent Increase = 3.5% + ½(5%) = 6.0%
   b. Actual rent increase = 6.0%
   c. Up to 0.1% carryover rent increase can be added if it exists from prior years.
3. CPI-U = 6.0%
   a. Calculated Rent Increase = 3.5% + ½(6%) = 6.5%
   b. Actual rent increase = 6.1%
   c. 0.4% carryover rent increase accrues and can be added in future years.
4. CPI-U = 6.1%
   a. Calculated Rent Increase = 3.5% + ½(6.1%) = 6.55%
   b. Actual rent increase = 6.1%
   c. 0.45% carryover rent increase accrues and can be added in future years.
5. CPI-U = 6.2%
   a. Calculated Rent Increase = 6.2% (because 6.2% is greater than 6.1%)
   b. Actual rent increase = 6.1% (because 6.2% is between 6.1% and 8%)
   c. 0.1% carryover rent increase accrues and can be added in future years.
6. CPI-U = 7%
   a. Calculated Rent Increase = 7% (because 7% is greater than 6.1%)
   b. Actual rent increase = 6.1% (because 7% is between 6.1% and 8%)
   c. 0.9% carryover rent increase accrues and can be added in future years.
7. CPI-U = 9.1%
   a. Calculated Rent Increase = 9.1% (because 9.1% is greater than 6.1%)
   b. Actual current year rent increase = 6.1% + ½(9.1% - 6.1%) = 7.6%
   c. 1.5% carryover rent increase accrues and can be added in future years.

d. Additional Rent Increases for Allowed Expenses

In addition to a CPI-U increase, a community owner can increase the rent to offset increases in certain expenses.[151] The community owner must provide specific notice that it intends to do so,[152] and must provide homeowners with documentation about the increased expenses.[153] Allowed expenses are taxes, insurance, utility charges or service, and onsite employee costs (including benefits and taxes but excluding salaries and wages).[154] The

[151] 25 *Del. C.* § 7052B.
[152] 25 *Del. C.* § 7052A(b)(2).
[153] 25 *Del. C.* § 7052B(a)(2).
[154] 25 *Del. C.* § 7052B(b)(3).

additional rent increase is only permitted if the allowable expenses increased by more than the CPI-U.[155]

Homeowners **can** challenge rent increases for allowed expenses through the Rent Justification Arbitration Process.[156]

e. Market Rent Increases

Instead of increasing the rent based on CPI-U, a community owner may increase the rent to "market rent."[157] If the rent increase is less than or equal to 50% of the current rent, the rent increase must be phased in over 7 years.[158] If the rent increase is more than 50% of the current rent, the rent increase must be phased in over 10 years.

For example, if the current rent is $700 and market rent is $1050, the market rent increase is $350. This is 50% of the current rent, so the rent increase must be spread out over 7 years. The rent increase will therefore be $50 each year for the next 7 years.

Homeowners **can** challenge market rent increases through the Rent Justification Arbitration Process.[159]

f. Rent Justification Arbitration[160] Process

i. Notice

For rent increases that can be challenged under the Rent Justification Arbitration Process, the rent increase notice must include the time, date, and location of a meeting at which the community owner will explain the reasons for the rent increase to the homeowners.[161]

ii. Required Meeting

The required meeting must be held within 30 days from the date of mailing of the notice of the rent increase.[162] The date, time, and location for the meeting must be approved by the Delaware Manufactured Home Relocation Authority.[163]

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[155] 25 *Del. C.* § 7052B(c).
[156] 25 *Del. C.* § 7053(a)(1).
[157] 25 *Del. C.* § 7052A(d)(1).
[158] 25 *Del. C.* § 7052A(d)(3)a.
[159] 25 *Del. C.* § 7053(a)(1).
[160] Although called "arbitrations" by the Act, these proceedings are more like administrative hearings than true arbitrations. The terms "arbitrator" and "arbitration" are used herein to be consistent with the statutory language.
[161] 25 *Del. C.* § 7053(b).
[162] 25 *Del. C.* § 7053(b).
[163] *See* 25 *Del. C.* § 7053(b)(2).

iii. Required Disclosures

At or before the required meeting, "the community owner shall, in good faith, disclose in writing all of the material factors resulting in the decision to increase the rent." If "market rent" is one of the grounds for the rent increase, there are additional disclosure requirements.[164]

iv. Petition for Arbitration

Homeowners who have not accepted the proposed rent increase, or the homeowners' association on their behalf, may file a petition for arbitration with the Delaware Manufactured Home Relocation Authority to challenge the rent increase.[165] **The petition must be filed with 30 days of the meeting about the rent increase**.[166] This time period can be extended, but only by written agreement signed by both the community owner and at least one homeowner.[167] If homeowners request arbitration, the homeowners (collectively) and community owner must each pay a $250 filing fee.[168]

v. Status of the Rent Increase During Arbitration

The proposed rent increase goes into effect as scheduled even if the homeowners challenge the increase. If the rent increase (or portion thereof) is not approved by the arbitrator, the community owner must reduce the rent retroactive to the date that the rent increase went into the effect and provide a rebate to the affected homeowners.[169]

vi. Arbitration Hearing and Decision

After receiving a timely petition, the Delaware Manufactured Home Relocation Authority will appoint an arbitrator.[170] The arbitrator acts as the "judge" for the proceeding and will handle prehearing matters such as witness lists and the exchange of exhibits. The hearing is like a trial but can be slightly less formal. Witnesses are sworn in,[171] and the hearing is transcribed by a court reporter.[172]

At arbitration, the community owner must prove that: (1) it complied with the requirements of the Subchapter VI and that the proposed rent increase is one of the types of rent increase permissible under the law.

The arbitrator will render a decision within 15 days of the conclusion of the arbitration hearing.[173]

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[164] 25 *Del. C.* § 7053(c).
[165] 25 *Del. C.* § 7053(f).
[166] 25 *Del. C.* § 7053(f).
[167] 25 *Del. C.* § 7053(d).
[168] 25 *Del. C.* § 7053(f).
[169] 25 *Del. C.* § 7053(l).
[170] 25 *Del. C.* § 7053(f).
[171] 25 *Del. C.* § 7053(h).
[172] 25 *Del. C.* § 7053(i).
[173] 25 *Del. C.* § 7053(k).

vii. Appeal

Either party may appeal the arbitrator's decision to the Superior Court within 30 days of the issuance of the decision.[174]

[174] 25 *Del. C.* § 7054.

XI. Home Sales and Lease Transfers

a. Selling a Home

Prior to listing their home for sale, the homeowner must notify the community owner that they intend to sell their home.[175] The community owner is then entitled to perform an exterior inspection of the home to determine if the home meets the community standards for retention in the community.[176] The inspection must be performed within 10 days of the date the homeowner sends the notice of intent to sell.[177] If the community owner performs an exterior inspection, the community owner must provide the tenant with a list of any violations of the community standards.[178] This list must be provided within 7 days of the date of the inspection and must include specific references to the home standards and rules.[179]

A buyer has 90 days from the date they purchase the home to complete any changes required by the home standards.[180] If the home was purchased between November 1 and March 1, the buyer has until June 1 to complete the work. If the work cannot be completed by the deadline, the homeowner must submit an explanation of the efforts taken to complete the work and a plan to have the work completed. The community owner must provide the homeowner with a reasonable amount of additional time to complete the work.[181]

b. Landlord's Right to Purchase Tenant's Home

When a homeowner makes an agreement to sell, convey, or transfer their home to a third party, they must give the landlord written notice at least **3 weeks** prior to the scheduled transfer. **The notice must include the name and address of the potential transferee and a written statement or proposed bill of sale clearly indicating the agreed sale price and terms.** If the homeowner fails to provide the required notice, they can correct this error by changing the date for the sale, conveyance, or transfer.[182]

The landlord has the right to purchase the homeowner's home for a price 10% higher than the contract price and for the same terms.[183] Certain transfers, such as foreclosures and transfers to family members are exempt from this right.[184] In order to exercise its right, the landlord must provide written notice to the homeowner within 7 days of receiving the homeowner's notice of the intent to sell or transfer the home.[185] If the community owner exercises its right to purchase the home, it must provide a nonrefundable deposit of 5% of the

[175] 25 *Del. C.* § 7013(c)(1)a.1.
[176] 25 *Del. C.* § 7007(c)(2).
[177] 25 *Del. C.* § 7007(c)(3).
[178] 25 *Del. C.* § 7007(c)(4).
[179] 25 *Del. C.* § 7007(c)(4).
[180] 25 *Del. C.* § 7007(c)(5).
[181] 25 *Del. C.* § 7007(c)(5).
[182] 25 *Del. C.* § 7013(c)(1)a.2.
[183] 25 *Del. C.* § 7013(c)(1)d.
[184] 25 *Del. C.* § 7013(c)(2).
[185] 25 *Del. C.* § 7013(c)(1)d.1.

purchase price of the home.[186] Additionally, the community owner must agree to the same settlement date as provided in the notice to sell unless the homeowner and community owner agree in writing to change the date.[187]

The landlord is not permitted to take any action to exert undue influence or pressure on a homeowner to sell the home to the landlord.[188]

c. Automatic Transfer of Leases

Lot leases automatically transfers under certain circumstances:

1. When the homeowner or homeowner's estate sells the home to a buyer, unless the seller fails to comply with the community owner's right to purchase the home or the community owner has purchased the right to transfer the lease.[189]
2. When the home is transferred to the heirs of the homeowner if at least one of those heirs was an occupant of the home at the time of the homeowner's death.[190]
3. To the heirs of a deceased homeowner when no heir is an occupant of the home at the time of the homeowner's death, **but only for one year**.[191]
4. To the estate of a deceased homeowner, **but only for one year**.[192]

If the transfer is for a limited period of time, the community owner is not required to renew the lease at the end of that period.

d. Lease Transfer Buyout

A community owner may offer to buy out the homeowner's right to transfer the lease.[193] The offer may not be made after the community owner provides the homeowner with presale inspection results,[194] and the offer must be at least the greater of (a) $1,500 or (b) 36 times the difference between the homeowner's rent and the current market rent in the community.[195] The homeowner is **not** required to accept the community owner's offer to buy out the right to transfer the lease.[196]

e. Transfers After the Death of a Tenant

After the death of the last remaining tenant in the home, a community owner may not file for summary possession for 90 days,[197] and it is a defense to summary possession that matters

[186] 25 *Del. C.* § 7013(c)(1)d.2.
[187] 25 *Del. C.* § 7013(c)(1)d.4.
[188] 25 *Del. C.* § 7013(g)(1).
[189] 25 *Del. C.* § 7013(b)(1)a.
[190] 25 *Del. C.* § 7013(b)(1)b.
[191] 25 *Del. C.* § 7013(b)(1)c.
[192] 25 *Del. C.* § 7013(b)d.
[193] 25 *Del. C.* § 7013(f).
[194] 25 *Del. C.* § 7013(f)(1).
[195] 25 *Del. C.* § 7013(f)(1).
[196] 25 *Del. C.* § 7013(f)(3).
[197] 25 *Del. C.* § 7013(b)(6).

related to the administration of the estate prevent payment of the rent for up to 90 days.[198] The tenant's estate or heirs may still be held liable for the rent, late fees, and court costs.[199]

After the death of a tenant, the heirs or estate must provide the community owner with information about the new owners of the home, including their addresses and phone numbers, as well as information about any new intended residents of the home.[200]

A community owner may not terminate a lease due to the death of a tenant if the tenant's estate or heirs transfer the lease to a non-tenant occupant who was living in the home at the time of the tenant's death. The occupant may be required to complete the criminal background portion of the tenancy application if they did not do so prior to the tenant's death.[201] If there are multiple heirs and fewer than all of them reside in the home, such an arrangement is not a violation of a lease provision that might otherwise prohibit that arrangement, including prohibitions against subletting.[202]

[198] 25 *Del. C.* § 7013(b)(6).
[199] 25 *Del. C.* § 7013(b)(6).
[200] 25 *Del. C.* § 7013(b)(7).
[201] 25 *Del. C.* § 7013(b)(2).
[202] 25 *Del. C.* § 7013(b)(4).

XII. Delaware Manufactured Home Relocation Authority

The Delaware Manufactured Home Relocation Authority[203] (the "**Authority**" or "**DEMHRA**") manages the Delaware Manufactured Home Relocation Trust Fund.[204] Among other duties, the trust fund provides payments to eligible homeowners when their leases are terminated due to a change in land use.[205] Homeowners and community owners pay a fee to the Trust Fund. The homeowner's portion of the fee is collected monthly with the monthly rent payment.[206]

XIII. Lot Rental Assistance Program and Limited Lot Rental Assistance Program

The Lot Rental Assistance Program is a rent control program for eligible homeowners.[207] To be eligible, homeowners must be eligible for Social Security Disability, Supplemental Security Income, or be 62 years old or older.[208] There are additional eligibility requirements including a household income limit (total household income equal to or less than 40% of the county median income for that household size) and a household asset limit (no more than $50,000 in total liquid assets).[209] Community owners are required to provide notice of the program to homeowners in the community.[210]

The Limited Lot Rental Assistance Program was created in 2022 and provides some assistance for homeowners whose income exceeds the income limit for the Lot Rental Assistance Program. For households whose total income is between 40% and 55% of the county median income for their household size and who meet the other requirements, the Limited Lot Rental Assistance Program limits the amount that the tenant's rent can be increased but does not reduce the current rent.[211]

XIV. Tenant's Receivership

Under extreme circumstances, tenants in a manufactured home community can petition the Justice of the Peace Court to establish a receivership.[212] More information about the receivership process can be found in Subchapter VII of Chapter 70.

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[203] https://demhra.delaware.gov/
[204] *See* 25 *Del. C.* §§ 7041-7046.
[205] 25 *Del. C.* §§ 7041-7046.
[206] 25 *Del. C.* § 7042(g)(2)b.
[207] 25 *Del. C.* §§ 7022, 7022A, 7022B.
[208] 25 *Del. C.* § 7022(a).
[209] 25 *Del. C.* § 7022(a).
[210] 25 *Del. C.* § 7022A(b)(1).
[211] 25 *Del. C.* § 7022B.
[212] 25 *Del. C.* §§ 7061-7067.

XV. Other Provisions

a. Effect of an Unsigned Lease

If a landlord does not sign a lease that has been signed by and tendered to the tenant, acceptance of rent by the landlord without reservation has the same effect as if the landlord had signed the lease.[213] Similarly, if a tenant does not sign a lease that is signed by and tendered to the landlord, taking possession of the rented lot, and paying rent without reservation has the same effect as if the tenant had signed the lease.[214]

If a lease unsigned by one party is given effect as described in the prior paragraph, and if the lease provides for a term longer than 1 year, the lease term is modified to 1 year.[215]

b. Method of Notice

Notice under the Act can be provided through personal service (i.e., directly handing the document to an appropriate person),[216] or by sending the document by mail.[217] Mailed documents must be sent by first class mail with proof of mailing or by certified mail to be considered proper notice.[218] **Email is not a recognized form of notice under the Act except where specifically mentioned in the statute.**

c. Use of Community Center by Homeowners

If the community has a community center available for use by tenants, the landlord must allow groups of tenants, either as part of a homeowners' association or as an informal group, to use the community center "to address matters affecting or relating to such tenants' rights, obligations, or privileges in, about or relating to the manufactured home community." The community owner may not charge a fee for such use other than the fee imposed for ordinary use by tenants (if such a fee exists).[219] The landlord must honor a request by a group of tenants for such use within 14 days of the request.

A group of tenants using the community center for a meeting as described in the previous paragraph must "abide by all existing rules and regulations established for [use of] the community center."[220]

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[213] 25 *Del. C.* § 7012(a).
[214] 25 *Del. C.* § 7012(b).
[215] 25 *Del. C.* § 7012(c).
[216] 25 *Del. C.* § 7015(a).
[217] 25 *Del. C.* § 7015(b).
[218] 25 *Del. C.* § 7015(b).
[219] 25 *Del. C.* § 7020(m).
[220] 25 *Del. C.* § 7020(m).

d. Retaliation

Landlords are prohibited from committing retaliatory acts against tenants.[221] A retaliatory act is any "action against a tenant for summary possession, to terminate a tenant's rental agreement, to cause a tenant to move involuntarily . . . or to decrease services to which the tenant is entitled under the rental agreement,"[222] after any of the following:

- The tenant makes a good faith complaint to the landlord or an enforcement agency about the condition of the premises that violates the Act or other relevant statutes or regulations.[223]
- And enforcement authority has instituted an enforcement action based on a complaint by a tenant for a violation of the Act or other relevant statutes or regulations.[224]
- The tenant has formed or participated in a homeowners' association.[225]
- The tenant has filed a legal action against the landlord or landlord's agent for any reason.[226]

Acts taken or attempted by the landlord against the tenant within 90 days of the tenant taking one of the above-listed actions are presumed to be retaliatory,[227] but the community owner can raise defenses to rebut a claim of retaliation.[228]

If a court finds that the landlord committed a retaliatory act, the affected tenant is entitled to recover the court costs of the action in addition to the greater of (1) three months' rent or (2) three times the damage sustained.[229]

e. Right of Redemption (i.e., Pay to Stay)

A landlord may not evict a tenant for failing to pay rent under the following circumstances:

- Prior to the landlord filing an eviction case in court: if the tenant, or someone on the tenant's behalf pays all rent owed, including late fees. The landlord may restrict the method of payment to methods permitted in the lease but cannot refuse payment.[230]
- After the landlord files an eviction case in court but before the tenant is removed by the execution of a writ of possession: if the tenant, or someone on their behalf, pays all rent owed, including late fees, plus any costs and fees awarded by the court.[231]

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[221] 25 *Del. C.* § 7019(a).
[222] 25 *Del. C.* § 7019(b).
[223] 25 *Del. C.* § 7019(b)(1).
[224] 25 *Del. C.* § 7019(b)(2).
[225] 25 *Del. C.* § 7019(b)(3).
[226] 25 *Del. C.* § 7019(b)(4).
[227] 25 *Del. C.* § 7019(c).
[228] 25 *Del. C.* § 7019(d).
[229] 25 *Del. C.* § 7019(e).
[230] 25 *Del. C.* § 7016(b)(3).
[231] 25 *Del. C.* § 5716A(b).

- Prior to judgment being entered against the tenant, the landlord may restrict the method of payment to methods permitted in the lease but cannot refuse payment.
- After judgment has been entered against the tenant, the landlord may require payment by certified check or money order but cannot refuse payment.

A tenant who has had two judgments of possession entered against them for failure to pay rent in the prior 18 months is not eligible for the right of redemption.[232]

[232] 25 *Del. C.* § 5716A(b)(7).