

# **DELAWARE DEPARTMENT OF JUSTICE**

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



**This Summary Must Be Provided to Prospective Lot Lease Tenants**

**REVISED AUGUST 2019**

# **The Delaware Department of Justice Summary of the Manufactured Home and Manufactured Home Communities Act**

## **DISCLAIMER**

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

*This document is a summary of the Act. It 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.*

## **A Note About Language**

For historical reasons, the Act sometimes refers to home owners in manufactured home communities as “home owners” 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 “home owner” and “tenant” can be used interchangeably in this summary. Similarly, unless specifically noted, the terms “community owner” and “landlord” can be used interchangeably in this summary.

## **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. *See 25 Del. C. § 7001.*

## **Jurisdiction**

The Act applies to anyone who owns, uses, manages, or possesses real estate in Delaware. The Delaware Residential Landlord-Tenant Code applies to manufactured home lot rent agreements, except when displaced by a relevant provision of the Act. *See 25 Del. C. § 7002.*

## **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. *See 25 Del. C. § 7003.*

## **Exceptions**

The Act does not apply to lot lease rentals for recreational vehicles or seasonal property. *See 25 Del. C. § 7004.*

## **Application for Lot Lease**

When a landlord 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, (2) 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. *See 25 Del. C. § 7006 (formerly § 7005).*<sup>1</sup>

## **Acceptance of an Unsigned Lease Agreement by Actions**

If a landlord accepts rent without reservation from a tenant who has signed and tendered a lease, that acceptance shall have the same effect as if the landlord had signed the lease. *25 Del. C. § 7012. (formerly § 7017).*

Likewise, if a tenant accepts possession of a rented lot and pays rent without reservation after the landlord signs and tenders the lease, that acceptance shall have the same effect as if the tenant signed the lease. *25 Del. C. § 7012. (formerly § 7017).*

## **Mandatory and Prohibited Lease Provisions**



**Mandatory Provisions** – lot rent agreements ***must*** contain:

- Identification of the rented lot.
- A statement of the total annual rent.
- A statement of the terms for rent payments (which are typically monthly unless otherwise agreed to by the parties).
- An explanation of the community's late fee policy, if one exists.
- A listing of each additional fee or charge in a manner that identifies the service provided for such fee or charge.
- The name and address of the landlord or agent for receiving notice or service of process.
- The name and location of the FDIC insured institution where security deposits are kept.

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<sup>1</sup> A recently-passed law, House Bill 45, reorganized the Manufactured Home and Manufactured Home Communities Act and changed the section numbers of various parts of the law. The bill is scheduled to take effect in December 2019. Where a section number has changed, the new section number is provided, and the prior section numbers are included in parentheses as "(formerly § \_\_)". If you are reading this summary prior to December 2019, the "former" section numbers should be considered current. Any citation that does not include a "formerly \_\_" parenthetical has the same section number under both versions of the law.

- A requirement to provide 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.
- A requirement to provide a rental agreement summary that must contain:
  - A brief description of the home
  - The specific rented lot
  - The amount of the annual rent and monthly payment amount
  - Duration of the rental agreement
  - The name, address, and phone number of the property manager
  - The tenant's mailing address
  - Any additional fees
  - The amount of the security deposit; and
  - The rent charged for the last three years.
- The ways in which the lease can be terminated.
- A specific reference to the Act (as codified) as the law governing the agreement.
- Provisions Requiring the Landlord to:
  - 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;
  - Maintain the community in a manner that protects the health and safety of residents, visitors, and guests;
  - Identify each lot so tenants can identify their area of responsibility;
  - Keep the community free from noxious or harmful plants and weeds;
  - Make a good faith effort to exterminate insect, rodent, vermin, and pest infestations of the common areas;
  - 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;
  - If applicable, specify whether septic systems shall be maintained by the landlord or tenant;
  - 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;
  - Maintain community roads in good condition;
  - Comply with federal, state, and local building codes;

- 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
- 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, landlord has no responsibility for leaves, needles, pine cones, sap, pods, seed containers, etc.
- Provisions Requiring the Tenant to:
  - Keep the rented lot and exterior of the home clean and sanitary;
  - Refrain from storing building materials, furniture, or similar items outside;
  - Dispose of rubbish, garbage, and waste in a clean and sanitary manner;
  - Abide by all reasonable written rules; and
  - Abide by all reasonable written manufactured home standards.



**Prohibited Provisions** – lot rent agreements may **not** contain provisions:

- Authorizing a person to confess judgement on a claim arising out of the rental agreement.
- Waiving or forgoing any right or remedy that is provided to the tenant by law.
- Waiving a tenant’s right to jury trial.
- Authorizing the landlord to take possession of the rented lot or the tenant’s property without formal legal process.
- 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.
- Establishing late fees exceeding \$25 or 5 percent of the rental payment (whichever is greater).
- 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 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.
- 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.
- Forbidding the tenant from terminating the lot lease agreement upon a minimum of 30 days’ notice when the tenant incurs a change in employment and consequently commutes 30 miles further than his or her previous commute.

- 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.
- 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.
  - 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.
  - Terminating the rental agreement means that the tenant gives notice and leaves the rental space.
- Forbidding the tenant from displaying a for-sale sign for the manufactured home.
  - The landlord may establish reasonable limitations for the number, size, and placement of signs.
- Unreasonably limiting the tenant's freedom of choice for the purchase of goods and services.
  - Note, 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.
  - Note, the landlord may restrict trash collection to a single provider.
  - Note, the landlord may select shared utilities for the community.
- Providing for the recovery of attorneys' fees by either party in a legal dispute involving the tenancy.
- Violating federal, state, or local law.
- Requiring tenant to sell or transfer home to the landlord.
- Requiring tenant to buy the home from the landlord.
- Requiring tenant to sell the home through services of the landlord.
- Requiring tenant to provide landlord with a key to tenant's home or associated structures.
- Controlling the use of satellite dishes or television antennas in a manner that conflicts with federal law or FCC regulations.
- Requiring the tenant to use automatic debit for rent payments.
- Granting landlord option or right of first refusal to purchase tenant's manufactured home.
- Providing liquidated damages for the landlord's breach of the agreement.

### **Damages for Use of Prohibited Provisions or Failure to Use Mandatory Provisions**

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). 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. 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.

### **Lot 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 *See 25 Del. C. § 7009 (formerly § 7007)*.

### **Automatic Renewal**

Lot lease agreements automatically renew at the end of the term unless the parties follow the procedure for terminating the agreement. Tenants may prevent the renewal by providing the landlord with written notice at least 60 days before the expiration of the agreement. Landlords may prevent the renewal of the lease by providing the tenant with written notice at least 90 days before the expiration of the agreement if there is due cause to terminate the lease. Due cause is explained below in the section on lease terminations. Automatically renewed leases maintain the same duration and terms except that the amount of rent may be changed as allowed under the Rent Justification Act. The Rent Justification Act is explained below in the section on rent increases.

### **Fees and Charges**

Fees or charges may be assessed to cover the cost of services furnished to the tenant or costs incurred by the landlord as a direct result of the tenant's use of the premises, acts, or omissions. Fees must be set forth in a fee schedule attached to the rental agreement. *See 25 Del. C. § 7020 (formerly § 7008)*.

### **Assessment of Fees**

Landlords may, in due course, assess fees for the use of services or for expenses incurred as a direct result of the use of the premises. Fees for failure to perform a duty under the rental agreement may be assessed after the landlord notifies the tenant of such failure and allows the tenant 5 days to cure.

### **Application Fees**

Landlords may assess an application fee that may 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.

### **Third-Party Payment Fees**

If a landlord pays a tenant's utility bill due to the tenant's failure to pay the bill, the landlord may assess a third-party payment fee not to exceed the greatest of 5 percent of the total payment or \$25.

### **Late Fees**

If the rental agreement includes provisions for late fees, and if tenant does not pay the rent within five days after the due date, the landlord may assess a late-payment fee.

### **Optional-User Fees**

A landlord may assess an optional-user fee for the use of designated facilities or services. The optional user fee must be reasonably related to the cost of providing the facility or service covered by the fee. Tenants are not required to pay these fees as long as they do not use the designated facilities or services.

### **HOA Meetings at Community Center**

A manufactured home community homeowners association has the right to use the community center (if one exists) for meetings to discuss matters affecting or relating to tenants' rights, obligations, or privileges. The landlord must make the facility available without charge within 14 days of an HOA's request to use it for a meeting. 25 *Del. C.* § 7020(m) (formerly § 7008(m)).

### **Adjustment of Fees**

Most fees can only be increased once during a 12-month period. However, landlords may make monthly adjustments of the fee for a utility the landlord is responsible for providing under the lot rental agreement. Such fees may not exceed the utility's retail consumer rate.

### **Adjustment of Fees for Discontinued Service**

The landlord must adjust the tenant's rent, charge, or fee payment to account for the discontinuation of a facility or service previously provided under the rental agreement. There is a formal procedure for such cases. First, the landlord must provide at least 60 days' notice that the facility or service will be discontinued. Second, tenants may form a committee of up to five members within ten days of the landlord's notice. Third, the landlord and the committee shall meet to discuss the matter.



## **Termination of the Lease by the TENANT**

### **A. At the End of the Lease Term**

The tenant may terminate the lease by giving written notice to the landlord at least 60 days prior to the end of the lease term.

### **B. Change of Employment Location/ Military Reassignment**

Special rules apply for tenants who change jobs and the new job is far away from the old job and home. Special rules also apply for members of the United States armed forces who receive reassignment orders.

### **C. Within the First Month of Occupancy**

A tenant may terminate the lot lease agreement and vacate the lot within the first month of occupancy if the landlord fails to substantially comply with the provisions of the rental agreement or any statute, ordinance, or regulation governing the maintenance or operation of the community. *See 25 Del. C. § 7021 (formerly § 7009).*

### **D. Within First 18 Months for False Advertising**

A tenant may terminate the rental agreement within 18 months of its execution in cases where the tenant entered the lease agreement in reasonable reliance on an advertisement containing the landlord's material misrepresentation of a fact about the community, services, or a provision of the rental agreement.

### **E. At Any Time for Denial of Benefit and Enjoyment of the Leasehold.**

If a condition exists that deprives the tenant of a substantial part of the benefit and enjoyment of the leasehold, the tenant may give written notice to the landlord that he will terminate the agreement and vacate the lot at the end of the month unless the landlord remedies the condition within 15 days. This provision does not apply when the condition was caused by the lack of due care of the tenant, a resident of the tenant's home, or any person on the premises with the consent of the tenant or a resident of the tenant's home.

## **Termination of Lease by Landlord**

Landlords may terminate or refuse to renew a lot lease agreement for due cause. Due cause exists in two circumstances. First, there is due cause when the landlord intends in good faith to change the use of the land at the community. Secondly, there is due cause when the tenant has committed specified types of bad conduct.

### **A. Termination/Non-renewal Due to Change in Use**

In cases where the landlord decides to change the use of the land, the landlord must provide all affected tenants with a written termination or nonrenewal notice at least one

year in advance. The notice must be sent by certified mail and also be posted on the homes of the affected tenants. (formerly § 7027).

1. Relocation Plan

Along with the notice, the landlord must also provide a relocation plan for each affected tenant. The relocation plan must contain contact information for manufactured home communities within a 25 mile radius, contact information for places providing housing for disabled or elderly individuals within a 25 mile radius, relevant social services, a basic description of the relocation and abandonment procedures, a preliminary indication of whether the tenant's home can be relocated, and a copy of 25 *Del. C.* § 7024 (formerly § 7010). The plan must be submitted to the Delaware Manufactured Home Relocation Authority at the same time it is sent to the affected tenants. The plan must be updated every 3 months.

2. Good Faith

Landlords are subject to legal liability for attempting to terminate leases for a change in use when the landlord does not actually have a good faith intention to change the use of the land.

**B. Termination Due to Bad Conduct**

Section 7016 (formerly Section 7010A) provides a list of bad conduct that can be the basis for termination of a lot lease agreement. The following types of bad conduct provide a basis for immediate termination:

- Causing or threatening to cause immediate and irreparable harm to any person or property in the community.
- Conviction of a crime or adjudication of delinquency that caused immediate and irreparable harm to any person or property in the community.
- Making a material misrepresentation on the lease application regarding something that would have resulted in the denial of the application.
- Failure to provide proper notification to the landlord prior to selling or transferring the manufactured home to someone who intends to keep it in the community.
- Failure to bring the manufactured home into compliance with written standards.

Section 7016 (formerly Section 7010A) also provides a list of bad conduct that can be the basis for termination if the tenant does not cure the conduct or desist.

- Disruption of others' right to quiet enjoyment.
- Late rent payments not cured within the grace period.
- Repeated instances of noncompliance with the rental agreement or community rules.

The landlord may terminate the rental agreement if there are sufficient repeated instances of bad conduct in a short enough period of time, even if the tenant cures or desists from the conduct.

### **Delaware Manufactured Home Relocation Authority**

The Delaware Manufactured Home Relocation Authority (DEMHRA) administers Delaware's Relocation Trust Fund. Tenants pay into the fund every month when submitting rent payments. The fund is used to help tenants move their homes when a community owner intends to change the use of the land or convert the community into a manufactured home condominium community. Payments are made in the form of a voucher issued by the Division of Revenue.

DEMHRA establishes the maximum relocation payment available. Tenants are not eligible for assistance from the relocation trust fund: (1) if the landlord moves the home to another lot within the community with the tenant's consent; (2) if the tenant vacated the home before receiving notice of the change in use; (3) if the tenant abandons the home, or (4) if the tenant has failed to pay his or her share of the trust fund assessment.

DEMHRA may provide compensation to a tenant who is eligible for the trust fund but whose home is deemed to be non-relocatable due to the lack of a replacement site or when the home cannot feasibly be moved. DEMHRA also provides trust fund payments to landlords to help cover the cost of disposing of non-relocatable or abandoned manufactured homes.

### **Holdover Tenants**

Tenants who remain on the rented lot after their rental agreement has been terminated, expires, or is not renewed are considered to be "holdover" tenants. 25 *Del. C.* § 7011 (formerly § 7016). If a court determines that the holdover is in "bad faith," the tenants will be liable for double rent from the date that the rental agreement terminated, expired, or was not renewed until they surrender possession of the lot.

### **Security Deposits**

Landlords may require security deposits under the terms of a rental agreement. Generally, the maximum security deposit cannot exceed one month's rent. The tenant may agree to larger security deposit that is specified in the rental agreement. If the rental agreement so specifies, the security deposit may be increased when rent is increased. If the increase is greater than 10 percent of the monthly rent, the tenant may request that the additional security deposit payment be prorated over the term of the rental agreement. For month to month tenancies, the increase may be prorated over 4 months.

Security deposits must be placed in an escrow account at a federally insured financial institution with an office accepting deposits in Delaware. Security deposits may be used to reimburse landlords for damage to the property beyond mere wear and tear. Security deposits may also be used to cover unpaid rent, fees, charges, Trust Fund assessments, and other monetary

obligations of the tenant. Landlords may also use security deposits to reimburse themselves for all reasonable expenses incurred in renovating and re-renting a property after a premature termination of a rental agreement

Landlords should return the security deposit, minus deductions that the landlord is entitled to under the Act, to tenants within 20 days from the termination or expiration of the lease agreement. A landlord who fails to comply with that requirement is liable for double the amount wrongfully withheld. *See 25 Del. C. § 7017 (formerly § 7018).*

### **Pet Deposits**

A pet deposit is a type of security deposit and is subject to rules governing security deposits. A rental agreement may require a pet deposit for each pet. The maximum amount of a pet deposit is one month's rent, unless the tenant agrees to a greater amount specified in the lease agreement. A landlord may not require a pet deposit for a certified and trained support animal assisting a disabled resident.<sup>2</sup>

The landlord may deduct funds from the pet deposit to pay for damage caused by a tenant's pets. Once the pet deposit is exhausted, the landlord may deduct funds from the security deposit to cover additional damage caused by a tenant's pets. Likewise, a pet deposit may be used to pay for damage not caused by pets once the security deposit is exhausted. *See 25 Del. C. § 7017 (formerly § 7018).*

### **Community Rules**

Landlords may issue reasonable written rules governing occupancy, use of the property, and the behavior of tenants, residents, guests, and visitors. Such rules must have one of the following purposes: (a) promoting health safety, or welfare; (b) promoting residents' quiet enjoyment; (c) preserving the property values of tenants or the landlord; (d) promoting orderly and efficient operation of the community; or (e) preserving property from abuse. *25 Del. C. § 7018 (formerly § 7019).*

### **Rule Enforcement**

Rules may not be arbitrarily or capriciously enforced. However, landlords may decide not to enforce a rule in circumstances where a tenant has documented special needs or hardship. Such discretionary non-enforcement does not waive the landlord's right to enforce the rule.

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<sup>2</sup> The rights of persons with disabilities regarding housing are governed by additional federal and state laws not covered by this Summary. Those laws should be consulted by anyone seeking a complete picture of the rights and responsibilities of landlords and tenants when the tenants are persons with disabilities.

## **Amendment**

Landlords may amend rules at any time. The amended rule becomes effective on the date specified in the amended rule or 60 days after tenants are given notice of the amendment, whichever is later. Within 10 days of receiving notice of the amendment, tenants may choose a committee of not more than five members to meet with the landlord and discuss the amended rule. The landlord must disclose and explain to the committee the material factors and any supporting documentation that led to the amendment.

## **Manufactured Home Standards**

Landlords must adopt reasonable written standards governing the size, age, quality, appearance, construction, materials, and safety features for manufactured homes at the community. Landlords may refuse to allow the placement of non-conforming manufactured homes. Generally, existing tenants have 9 years to bring their homes into compliance with newly promulgated standards. However, the landlord may require that the home be brought into compliance in a reasonable time that is less than 9 years when necessary for safety reasons. Homes that are not timely brought into compliance with the standards are subject to summary possession proceedings. *See 25 Del. C. § 7007 (formerly § 7020).*

## **Manufactured Home Standards for Resale or Transfer of Homes in the Community**

Landlords must also adopt reasonable written standards regarding the resale or transfer of title of manufactured homes in the community. The standards must relate only to appearance, maintenance, safety, or compliance with governing laws and regulations. The age of the home may not be used as the dominant criterion in the determination of whether the home is eligible for resale in the community. *See 25 Del. C. § 7007 (formerly § 7020).*

In cases where a buyer-transferee purchases a home that needs to be brought into compliance with a community's manufactured home standards, the buyer-transferee generally has 3 years to complete the required changes. However, the landlord may require the changes to be completed sooner when such changes are necessary for safety reasons. *See 25 Del. C. § 7013(e) (formerly § 7013(e)).*

## **Enforcement of Manufactured Housing Standards**

Manufactured housing standards may not be arbitrarily or capriciously enforced. However, landlords may decide not to enforce a rule in circumstances where a tenant has documented special needs or hardship. Such discretionary non-enforcement does not waive the landlord's right to enforce the rule.

## **Amendment of Manufactured Housing Standards**

Landlords may amend manufactured housing standards at any time. The amended standards become effective on the date specified in the amended standards or 60 days after tenants are given notice of the amendment, whichever is later. Within 10 days of receiving notice of the

amendment, tenants may choose a committee of not more than five members to meet with the landlord and discuss the amendment. The landlord must disclose and explain to the committee the material factors and any supporting documentation that led to the amendment.

### **Rent Increases: The Rent Justification Act**

Community owners may increase the rent no more than once during any 12-month period. 25 *Del. C.* § 7051 (formerly § 7009). The landlord must provide written notice of the rent increase a minimum of 90 days' notice prior to the date of a rent increase. 25 *Del. C.* § 7053(a)(1) (formerly § 7043(a)).

If the rent increase is more than the rate of inflation described in the Rent Justification Act, the community owner must hold a meeting to explain the rent increase and must disclose in writing all of the material factors resulting in the decision to increase the rent. After the meeting, home owners, or the Home Owners' Association on their behalf, can challenge the rent increase by filing a petition for arbitration with the Delaware Manufactured Home Relocation Authority. The petition must be filed within 30 days of meeting with the community owner.

### **Lot Rental Assistance Program**

Tenants who are eligible for SSDI or SSI or who are 62 years old or older may be eligible for lot rental assistance from their landlord. 25 *Del. C.* § 7022 (formerly § 7021A). However, there are many prerequisite qualifications, including:

- The home owner must have owned his or her home or resided in the home at the community prior to July 1, 2006.
- The home owner must reside exclusively in the home as his or her sole residence.
- Rent must exceed 30 percent of the 40 percent of the county median income for the number of residents in the home.
- The total liquid assets of the tenant and residents may not exceed \$50,000.

### **Lot Lease Transfer**

A manufactured home community tenant who is selling his or her home may transfer the existing lot lease to a buyer who plans to keep the home at the community. However, the tenant **must** give the landlord three (3) weeks written notice. The notice must provide the name and address of the prospective transferee, and a written statement or proposed bill of sale. The landlord may then accept or reject the prospective transferee on the same basis as any other applicant. If the landlord does not approve the transfer, the landlord will provide the prospective transferee with a written statement explaining the reasons for the decision. If the landlord approves the prospective new tenant, the tenant-seller may choose to transfer the lease to the new tenant or terminate the existing rental agreement and allow the buyer to negotiate a new lease. See 25 *Del. C.* § 7013 (formerly § 7022).

### **Landlord's Option to Buy Tenant-Seller's Home**

The landlord has the right to purchase a tenant-seller's home for one percent more than the amount the tenant-seller was prepared to accept from a third party buyer. In order to exercise that right, the landlord must provide the tenant with notice in writing within 5 business days of receiving the tenant's notice of the prospective transferee. The landlord may not exert undue influence to pressure a tenant to sell a home.

This right does not apply in the following situations: (a) when the home has been foreclosed, (b) when the tenant is transferring his lease or selling his home to a family member or a trust benefiting family members who would be included within the homeowner's line of intestate succession, (c) if the home owner dies and the home is transferred through intestate succession, (d) when the sale or transfer is between joint tenants or tenants in common, or (e) when the transfer or conveyance is by gift, devise, or operation of law.

### **Retaliation**

Landlords are prohibited from pursuing summary possession, terminating a rental agreement, causing the tenant to move involuntarily, or decreasing services to a tenant in response to specified categories of protected activity, including:

- The tenant's good faith complaint to an enforcement authority regarding a condition affecting the premises that constitutes a violation of the Act or other applicable laws and regulations;
- An enforcement authority's action based on the tenant's complaint;
- The tenant's participation in a tenants' organization or association;
- The tenant's legal action against the landlord or the landlord's agent.

It is presumed that the landlord committed retaliation if the tenant can prove that the landlord took one of the specified adverse actions within 90 days of the tenant engaging in a protected activity. The burden is then on the landlord to rebut the presumption. *See 25 Del. C. § 7019 (formerly § 7023).*

### **Enforcement**

The Consumer Protection Unit enforces the Act. CPU may file a civil action when it has reasonable cause to believe that a landlord has engaged in a pattern or practice of violating or failing to comply with the terms of any provision of a rental agreement covered by the Act. *See 25 Del. C. § 7005 (formerly § 7025).*