

DELAWARE HOME RELOCATION AUTHORITY TRUST FUND
Statutory Authority: 25 Delaware Code, Section 7012 (25 Del.C. §7012)

NOTICE OF PUBLIC HEARING

PROPOSED

201 Delaware Manufactured Home Relocation Trust Fund Regulations

The Delaware Manufactured Home Relocation Authority (the "Authority") will hold a public hearing to discuss proposed regulations relating to the administration of the Delaware Manufactured Home Relocation Trust Fund ("Trust Fund") established pursuant to 25 Del.C. §7012. The Authority was established by the Delaware Legislature pursuant to 25 Del.C. §7011. The primary purpose of the Authority is to: (a) provide financial assistance to manufactured homeowners who are tenants in a manufactured home community where the community owner changes the use of land or converts the manufactured home community to a condominium or cooperative community; and (b) to provide financial assistance to manufactured home community owners for the removal and/or disposal of non-relocatable or abandoned manufactured homes when there is a change in use or conversion. The Authority has set an initial \$3.00 monthly assessment for deposit into the Trust Fund, effective April 1, 2004. Under the statute, one-half of the monthly assessment is the obligation of the Tenant of a rented lot and one-half of the assessment is the obligation of the Landlord. The monthly assessments collected by the Authority are deposited into the Trust Fund, and the Authority is responsible for administering this fund. To carry out its statutory responsibilities, the Authority has been directed to, among other things, establish procedures under which applicants for payment from the Authority may be approved and to set maximum benefits that may be payable to applicants under certain circumstances.

Pursuant to its statutory authority, the Authority is proposing for adoption a comprehensive set of regulations to be used for the administration of the Trust Fund. The proposed regulations published herein will, among other things: (a) establish criteria for tenant benefits, including the maximum relocation payment available to a tenant for a single section home and a multi-section home and the maximum benefits available to a Tenant whose home has been determined to be non-relocatable; (b) criteria for Landlord benefits, including the maximum relocation benefits for manufactured homes that have been abandoned or determined to be non-relocatable; (c) application procedures to be followed by applicants for benefits; and (d) application review procedures.

The public hearing will be on Tuesday, November 30, 2004 beginning at 3:30 p.m. and ending at 6:30 p.m. in the Richardson Conference Room located at the offices of the Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, DE 19901.

Copies of the proposed regulations are available for review by contacting:

William A. Denman, Esquire
Parkowski, Guerke & Swayze, P.A.
116 W. Water Street
Dover, DE 19904
(302) 678-3262
Email: wdenman@pgslegal.com

Anyone wishing to present oral comments at this hearing should contact Mr. William A. Denman at (302) 678-3262 by November 22, 2004. Anyone wishing to submit written comments as a supplement to, or in lieu of oral testimony, should submit such comments by December 1, 2004 to:

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201 Delaware Manufactured Home Relocation Trust Fund Regulations

The Authority is granted authority to establish rules and regulations and establish criteria for the disbursement of benefits available to landlords and tenants under the provisions of 25 Del.C. §7011, et. seq. (the "Act"). The regulations set forth below establish criteria for benefits eligibility, pursuant to the statute, application procedures, application review procedures, and payment procedures.

1.0 Criteria for Tenant Benefits

1.1 Only "Tenants", as defined under the Act, are entitled to benefits under the Act. A Tenant is defined to mean an owner of a manufactured home who has tenancy of a lot in a manufactured home community. A manufactured home community refers to a parcel of land where two or more lots are rented or offered for rent for the placement of manufactured homes. Notwithstanding anything stated herein to the contrary, a Tenant shall not be entitled to any of the benefits described herein unless all of the statutory requirements set forth in the Act have been met.

1.2 A Tenant is entitled to relocation benefits under the Act if the Tenant is required to move due to a change in use or conversion of the land in a manufactured home community. A Tenant is not entitled for compensation for relocation if:

1.2.1 the Landlord (at the Landlord's expense) moves the Tenant's manufactured home by mutual consent to another lot in the manufactured home community or to another manufactured home community; or

1.2.2 the Tenant is vacating the manufactured home community and so informed the Landlord before notice of the change in use was given by the Landlord; or (c) the Tenant abandons the manufactured home; or

1.2.3 the Tenant has failed to pay the Tenant's share of the Relocation Trust Fund assessment during the course of his or her tenancy.

1.3 The maximum relocation payment available to a Tenant is \$4,000.00 for a single section home or \$8,000.00 for a multi-section home.

1.4 If a Tenant is required to move due to a change in use and complies with the statutory requirements of 25 Del.C. §7013, the Tenant is entitled to payment from the Relocation Trust Fund of the lesser of:

1.4.1 the actual relocation expenses of moving the manufactured home and existing appurtenances to a new location within a 25 mile radius of the vacated manufactured home community, or

1.4.2 the maximum benefits available under Section 1.3.

1.5 Moving expenses which are eligible for reimbursement include the cost of taking down, moving and setting up the manufactured home in the new location.

1.6 In certain circumstances, a manufactured home may be considered non-relocatable. If, based upon the criteria described herein, a Tenant's manufactured home is determined by the Authority to be non-relocatable, the Tenant may qualify for compensation to reimburse the Tenant for the value of the non-relocatable home subject to the limitations set forth in the Act.

1.7. Whether or not a home can or cannot be relocated will be determined by the Authority based upon the following criteria:

1.7.1 the availability of a replacement home site within a 25 mile radius of the vacated manufactured home community;

1.7.2 the feasibility of physical relocation, including the ability of taking down, moving and setting up the home in a new location without causing significant structural damage to the manufactured home in the process;

1.7.3 the appraised value of the manufactured home in comparison to the projected cost of relocating the manufactured home to a new location.

1.8 If the Authority determines that the Tenant's manufactured home cannot be relocated, the Tenant shall obtain, at the Tenant's expense, an appraisal prepared by a certified manufactured home appraiser for purposes of determining the fair market value of the home and any existing appurtenances. The appraisal shall exclude the value of the underlying land. The maximum benefits available to the Tenant under such circumstances shall be determined by the Board for a single section home and a multi-section home following the completion of an actuarial study to be performed under the direction of the Authority. Subject to the maximum limits, the amount of compensation that will be paid to the Tenant will be equal to the fair market value of the home based upon the appraisal.

1.9 To be eligible for compensation for a non-relocatable home, in addition to the application provided for in Section 3 hereof, the Tenant must deliver to the Authority a current State of Delaware title to the home, duly endorsed by the owner or owners of record, with valid releases of all liens shown on the title, and a tax release.

1.10 In lieu of the foregoing benefits, a Tenant may elect to abandon the manufactured home in the manufactured home community and collect from the Trust Fund, in lieu of any other benefits available under the Act, the sum of \$1,500 for a single section home or \$2,500 for a multi-section home. To qualify for this payment, the

Tenant must deliver to the Authority a current State of Delaware title to the manufactured home duly endorsed by the owner or owners of record, valid releases of all liens shown on the title, and a tax release.

2.0 Criteria for Landlord Benefits

2.1 If pursuant to the Act and these regulations, a manufactured home is determined to be non-relocatable or a Tenant abandons the home, upon application by the Landlord duly submitted to the Authority, a Landlord of a manufactured home community is entitled to receive from the Relocation Trust Fund payment in an amount determined by the Authority to be sufficient to remove and/or dispose of the manufactured home. The maximum relocation payment available to a Landlord is \$4,000.00 for a single section home or \$8,000.00 for a multi-section home. To qualify for this benefit, the Landlord must submit an application pursuant to the provisions of Section 3. Notwithstanding anything stated herein to the contrary, a Landlord shall not be entitled to any of the benefits described herein unless all of the statutory requirements set forth in the Act have been met.

2.2 Upon receipt of the title documents from the Tenant for the manufactured home that is considered to be non-relocatable or abandoned pursuant to the Act, the Authority will relinquish the title to the Landlord to facilitate the removal and/or disposal of the home from the manufactured home community. Within ten (10) calendar days after the removal and/or disposal of the manufactured home by the Landlord, the Landlord shall notify the Authority in writing of the amount of funds received by the Landlord, if any, from any subsequent sale or disposal of the manufactured home, and a copy of all documents relating to the removal and/or disposal shall be provided to the Authority, including documents relating to any expenses incurred by the Landlord in removing and/or disposing of the home.

2.3 Within thirty (30) days after receipt of the information and documents required under the Act and these regulations, the Authority shall cause a voucher to be issued to the Division of Revenue of the Department of Finance, directing the Division to issue a check in a designated amount to the Landlord which amount shall represent the amount determined by the Authority to be sufficient to cover the cost of the removal and/or disposal of the manufactured home, less any profit realized by the Landlord from the removal and/or disposal of the home, subject to the maximum relocation payment set forth in Section 2.1 hereof.

2.4 A Landlord shall not be entitled to any payment from the Trust Fund if the Landlord has failed to pay the Landlord's share of the total Trust Fund assessment during the course of the tenancies relating to the manufactured home community or if the Landlord has failed to remit the Tenant's share of said assessment.

3.0 Application Procedures

3.1 The Authority will provide application forms (Appendix A and Appendix B) on which applicants for benefits under the Act may apply for benefits.

3.2 In the case of an application for benefits under the Act by a Tenant, the application shall be in the form of Appendix A and shall contain the following information:

3.2.1 name of the Tenant;
3.2.2 mailing address of the Tenant;
3.2.3 telephone number of the Tenant;
3.2.4 manufactured home community park name and address;
3.2.5 space number for the manufactured home;
3.2.6 a description of the manufactured home, including its size, year, manufacturer, and whether the manufactured home is a single-wide or a double-wide;

3.2.7 a copy of the title or ownership documents relating to the manufactured home;
3.2.8 a copy of the notice of termination or non-renewal of the Tenant's rental agreement due to a change in use of land;

3.2.9 in the case of an application for relocation assistance, a copy of the contract between the Tenant and a licensed moving or towing contractor for the moving expenses for the home;

3.2.10 in the case of any requests for compensation for a manufactured home considered by the Tenant to be non-relocatable, a description of the facts which the Tenant relies upon in support of the Tenant's contention that the manufactured home is in fact non-relocatable based upon the criteria provided for in the Act and these regulations, together with any and all documents relating to the purchase of the manufactured home and any improvements made to the manufactured home by the Tenant;

3.2.11 a certification by the Tenant that the Tenant has paid the Tenant's share of the Trust Fund assessments during the course of the Tenant's tenancy.

3.3 In the case of an application for benefits under the Act by a Landlord, the application shall be in the form of Appendix B and shall contain the following information:

3.3.1 the name of the Landlord;
3.3.2 the name of the manufactured home community;

- 3.3.3 the mailing address of the Landlord;
- 3.3.4 the telephone number of the Landlord and if the Landlord is not an individual, the name of the designated representative of the Landlord;
- 3.3.5 a description of each manufactured home for which the Landlord is seeking financial assistance;
- 3.3.6 a copy of the notice of termination or non-renewal of the rental agreement due to a change in use of land;
- 3.3.7 a contract with a licensed moving or towing contractor for the removal and/or disposal of the manufactured home;
- 3.3.8 an itemization of all expenses, other than the expenses reflected in the contract between the Landlord and the moving or towing contractor, together with associated documents, which the Landlord anticipates will be incurred in removing and/or disposing of the manufactured home from the manufactured home community;
- 3.3.9 a certification by the Landlord that the Landlord has paid the Landlord's share of the total Trust Fund assessment during the course of the tenancies for the manufactured home community and has remitted to the Authority the Tenant's share collected by the Landlord.

4.0 Assistance and Data Gathering

4.1 When requested, the Authority shall provide assistance to Landlords and Tenants in completing application forms.

4.2. The Authority's staff may conduct on-site inspections and/or phone interviews with the applicants to acquire data necessary to enable the Authority to carry out its duties under the Act.

5.0 Application Review Procedures

5.1 The Authority has the power to approve applications pursuant to the Act.

5.2 The Authority or the Authority's staff will review applications and determine whether or not the procedural requirements under the Act and these regulations have been met. The Authority shall not be required to render a decision on any application unless and until the Applicant has submitted a completed application prepared in accordance with the Act and these regulations, and the Authority shall have the right to reject any application that does not comply with the procedural requirements of the Act or these regulations.

5.3 The Board of Directors of the Authority, or a committee of the Board designated to make such decisions (if authorized by the Board of Directors) shall endeavor to render a decision with respect to each application no later than thirty (30) days after receipt by the Authority of a completed application prepared in accordance with the Act and these regulations.

5.4 If the Authority approves an application, benefits available under the Act shall be made in the form of a voucher issued to the Division of Revenue of the Department of Finance, directing the Division to issue a check in a designated amount to the Applicant. Before any payment will be made by the Authority to the Applicant, the Applicant must provide the Authority with documentary evidence showing that the expenses for which the Applicant seeks reimbursement have been paid by the Applicant. Notwithstanding the foregoing, if an Applicant can demonstrate that due to financial hardship the Applicant cannot make such payments in advance of the payment of any benefit available under the Act, the Authority may issue a two-party check made payable to the Applicant and the contractor. Under such circumstances, the original check will be mailed to the Applicant and a copy will be mailed to the contractor.

5.5 If at the time the application is approved, the Trust Fund does not have sufficient monies to make a payment to an Applicant, the Authority shall issue a written promissory note to the Applicant for funds due and owing. Promissory Notes shall be redeemed in order of issuance of the notes as additional monies come into the Trust Fund.

5.6 If based upon the information submitted in a Tenant's completed application, the Authority determines that the Tenant's manufactured home cannot be relocated based upon the criteria set forth herein, the Tenant shall be directed to obtain, at the Tenant's expense, an appraisal prepared by a certified manufactured home appraiser, for purposes of determining the fair market value of the home and any existing appurtenances as sited, exclusive of the value of the underlying land. Within thirty (30) days after receipt of the appraisal, the Authority shall advise the Tenant of the benefits that the Authority will pay to the Tenant for the non-relocatable home. Payment shall be made to the Tenant in the manner described herein, within ten (10) days after the Tenant provides the Authority with all the documents required, including the current title to the home. Upon receipt of the title, the Authority will relinquish the title to the Landlord to facilitate the removal and/or disposal of the home from the manufactured home community.

5.7 With respect to applications submitted by the Landlord for costs associated with the removal and/or disposal

of non-relocatable or abandoned manufactured homes, within thirty (30) days after the receipt of the completed application and all necessary documents and information, including the documents described in Section 5.4 hereof, the Authority shall determine the cost of removing and/or disposing of the manufactured home and shall (subject to the maximum limits set forth in Section 2.1 hereof) issue payment for said amount to the Landlord, less any profit realized by the Landlord from the removal and/or disposal of the home.

5.8 If an Applicant disagrees with the Authority's decision with respect to any application, the Applicant may petition the Authority to reconsider its decision by requesting an administrative review with the Authority no later than fourteen (14) calendar days after the Authority's initial decision on the application. The request:

5.8.1 must be in writing;

5.8.2 must be received by the Authority within the aforesaid fourteen (14) day period; and

5.8.3 must include reasons and documentation in support of the Applicant's position.

5.9 After receipt of the Applicant's letter, the Authority will schedule an administrative review of the application at a regularly scheduled meeting of the Board of Directors of the Authority. Notice of the administrative review meeting will be sent to the Applicant at least seven (7) days in advance of the meeting. At the administrative review meeting, the Applicant shall present information or documentation to support the Applicant's position. At the administrative review meeting, the Authority will render a decision and notify the Applicant of its decision and the reason for the Authority's decision. The decision of the Authority shall be final and conclusive.

6.0 Moving and Towing Contractors

6.1 It shall be the responsibility of the Tenant and/or Landlord to enter into a contract with a towing or moving company for purposes of relocating, removing and/or disposing of a manufactured home. The contractor must be duly licensed to engage in said business in Delaware. The Authority shall not be responsible for the performance of the contractor, or have any obligation to the contractor, financial or otherwise.

7.0 Certified Manufactured Home Appraisers

7.1 The Authority shall maintain a list of certified manufactured home appraisers who are authorized and qualified to appraise manufactured homes in Delaware.

7.2 The appraiser shall be an independent appraiser who is qualified to appraise manufactured homes in Delaware.

7.3 Any appraisal required under the Act shall include the certified manufactured home appraiser's opinion as to the fair market value of the manufactured home as sited, and any existing appurtenances, but shall exclude the value of the underlying land. The appraisal shall take into consideration the replacement cost of the manufactured home, together with the age, physical condition and appearance of the home.

7.4 Any appraisal submitted by the appraiser shall include the appraiser's professional qualifications, a summary of the salient facts and conclusions of the appraiser, a description of the manufactured home, its condition, and the appraiser's analysis and conclusions.

7.5 The appraiser shall provide at least one original and three copies of each report to the Authority.

APPENDIX A

DELAWARE MANUFACTURED HOME RELOCATION AUTHORITY **TENANT APPLICATION FOR RELOCATION ASSISTANCE**

I hereby request assistance from the Delaware Manufactured Home Relocation Trust Fund as set forth in 25 Del.C. §7012. By signing this form, I certify that I am a tenant as defined in 25 Del.C. §7003(u) and that I have paid my share of the total Trust Fund assessment during the course of my tenancy. I understand that it is a class A misdemeanor for a tenant or a tenant's agent to file any notice, statement, or other document required hereunder which is false or contains a material misstatement of fact.

(Signature of Tenant)

(Date)

(Social Security No.)

TENANTS NAME _____

(Please Print)

Single or Multi-Wide: _____
Size: _____
Manufacturer: _____
Serial Number: _____
Year Manufactured: _____
HUD Label if any: _____

Listing of Appurtenances attached to the home, including estimate of Size:
(Awnings, Skirting, Coolers or Air Conditioners, Sheds, Porches, Carport, etc.)

DETAIL OF WORK TO BE PERFORMED AND CHARGES:

NOTE: Must include all disassembly, transportation and disposal costs.

Contractor Information:

Name: _____

Address: _____

IF APPLICANT REALIZES A PROFIT FROM THE REMOVAL AND/OR DISPOSAL OF THE HOME, APPLICANT MUST REIMBURSE THE TRUST FUND FOR ANY PROFIT GAINED BY APPLICANT PERTAINING TO THAT HOME.

8 DE Reg. 619 (11/01/04)