SPONSOR: Sen. Ennis & Rep. Longhurst
Sens. Sokola, Bushweller & Bunting;
Reps. Schwartzkopf, Kowalko & Carson

DELAWARE STATE SENATE
146th GENERAL ASSEMBLY

SENATE BILL NO. 205

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MANUFACTURED HOMES AND MANUFACTURED HOME COMMUNITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 70, Title 25 of the Delaware Code by repealing §7021 in its entirety

Section 2. Amend Chapter 70, Title 25 of the Delaware Code by adding the following new subchapter, to read as follows:

SUBCHAPTER III

§7040. Definitions.

As used in this subchapter, the following definition shall apply:

(a) 'Advisory Council' means the Governor's Advisory Council on Manufactured Housing or its successor.

§7041. Increase in Rents

At any time than an owner of a manufactured home community decides to raise the rents charged to residents of a community that he owns more than the increase of the Consumer Price Index For All Urban Consumers ("CPI-U") during the most recent twelve month period, the owner may do so only if the owner can demonstrate that the cost of operating and maintaining the affected community has risen more than the increase in the CPI-U in the previous year. If an owner of a manufactured home community demonstrates to the Advisory Council's satisfaction that the costs of operating and maintaining an affected community have risen more than the increase in the CPI-U for the last calendar year, the Advisory Council shall approve the owner's request which is directly related to operating and maintaining the community. A community owner must not incorporate the cost of a civil penalty, criminal fine, or litigation related costs for rent related proceedings into rent charged under any circumstance.

§7042. Hearing of the Advisory Council or successor.

(a) Upon the request of an owner of a manufactured home community for approval of an average rental increase greater than the increase in the CPI-U, the owner shall submit to the Advisory Council financial documents supporting his

claim that the owners cost of operating and maintaining the affected community has risen more than the CPI-U. The Advisory Council may request further financial information from the owner of a manufactured home community before it holds a hearing. If the owner refuses to provide such requested information, the Advisory Council will deny the owner's application. After receiving sufficient financial documentation, the Advisory Council will schedule a hearing for the purpose of determining appropriate action on the application for approval. The owners of the community shall provide each owner of a manufactured home within the community at least three weeks advance notice of the scheduled hearing before the Advisory Council. The notice shall inform owners of the manufactured homes within the community of the time, date and place of the hearing.

(b) If there is a legitimate, resident only home owners association, a representative of that organization may provide documents and other evidence to the Advisory Council regarding the request of the community owner. If there is no such organization, the Advisory Council may receive documents and offer evidence from residents as the Advisory Council determines is appropriate.

(c) A court reporter shall transcribe the proceedings before the Advisory Council. The fee of the court reporter shall be paid by the applicant.

(d) The Advisory Council shall seek the advice of Economists from the University of Delaware, the Delaware Housing Authority, and an authority from the Real Estate industry appointed by the Governor. Within 30 days of the conclusion of the evidence, the Advisory Council shall issue an opinion setting forth its findings. If the Advisory Council, with the advice of its advisors, finds that the owner of the affected community has sufficiently proved that the owner's cost of operating or maintaining the affected community has risen more than the CPI-U, the Advisory Council will also determine an appropriate amount of increase in the rentals to defray the owner's increase in cost. The Advisory Council's findings shall be mailed to the owner of the affected community and to the appropriate representatives of the organization representing the community within two days of the date of the issuance of the Advisory Council's findings.

§7043. Appeal.

Either the owner of the affected community or the recognized organization of homeowners within the affected community may appeal the decision of the Advisory Council within 30 days of the date of issuance of the Advisory Council's findings. The appeal shall be to the Superior Court in the county of the affected community. Said appeal shall be on the record.

§7044. Penalties.

An owner who raises rents in a manufactured home community more than the CPI-U without first having obtained approval of the Advisory Council shall be subject to a forfeiting rent for three to six months from each home owner in the

community who received the illegal rent increase. The Department of Justice shall investigate complaints that the owner of a manufactured home community has raised rents more than the CPI-U without Advisory Council approval.

§7055. Exemption.

Resident owned communities shall be exempt from the provisions of this Subchapter.

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

SYNOPSIS

This Bill provides that if an owner desires to raise the rentals charged to homeowners in a manufactured home community more than the increase in the Consumer Price Index For All Urban Consumers for the preceding year, the owner must seek approval of the Governor's Advisory Council on Manufactured Housing. The Council will consider evidence regarding increases in the cost of operating and maintaining the affected community. If the Council finds that the owner has demonstrated that the cost of operating and maintaining the community has been more than the CPI-U, it will approve an appropriate increase.

Author: Senator Ennis