

**PAUL S. BAUMBACH**  
STATE REPRESENTATIVE  
23<sup>rd</sup> District



**HOUSE OF REPRESENTATIVES**  
**STATE OF DELAWARE**  
411 LEGISLATIVE AVENUE  
DOVER, DELAWARE 19901

**COMMITTEES**  
Manufactured Housing, Chair  
House Economic  
Development/Banking/Insurance/Commerce  
House Health & Human Development  
House Revenue & Finance  
House Telecommunication Internet &  
Technology

## **Manufactured Housing Committee Meeting Minutes** **5.2.18**

Chair Baumbach called the meeting to order at 1:09 p.m. Members present included Vice-Chair Matthews, as well as Reps. Carson, Kowalko, Briggs King and Yearick. For an attendance list please see below.

Chair Baumbach introduced **HB 387, AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MANUFACTURED HOME COMMUNITIES**. He stated this bill changes the adjudication process from nonbinding arbitration to an administrative hearing. Additionally, this bill permits any party to request from Superior Court a stay of the hearing officer's decision if an appeal has been filed.

Chair Baumbach opened the floor to public comment.

W.M. Kinnick of the Delaware Manufactured Home Owners Association (DMHOA) expressed his opposition to the bill.

John Walsh of the League of Women Voters stated the strikes on this bill are unnecessary.

Jerome Heisler of the Reybold Group stated the bill should be tabled to establish clear goals.

John Paradee of Baird Mandalas Brockstedt LCC stated his opposition to the bill. He asked for permission from Chair Baumbach to have attorney Michael Morton speak on his experiences.

Andy Strine of Investor's Reality Inc. stated community owners and residents are against this bill.

Fred Neil of Wild Meadows questioned what a due process hearing offers versus arbitrations. He stated he does not oppose this bill.

Michael Morton of Michael P. Morton Attorneys at Law stated the current statute is clear and the decision of the rent is decided by the note sent out. This piece of legislation was drafted for a new look by a Superior Court judge in order to overturn flawed decisions of arbitrators. He stated this bill changes the entire process and they should defer back to the Administration Procedures Act.

Chair Baumbach stated they will have a House attorney continue to work on this bill and they would not be voting on HB 387 today.

Rep. Briggs King introduced **HR 24, AN ACT ESTABLISHING THE MHOCOA TASK FORCE TO REVIEW AND PROPOSE REVISIONS TO THE MANUFACTURED HOME OWNERS AND COMMUNITY OWNERS ACT**. She stated this resolution establishes the Manufactured Home Owners and Community Owners Act (MHOCOA) Task Force to review the MHOCOA in order to determine what changes,

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if any, are needed in order to improve this Act so that it supports a balance of protections and rights for all parties involved. She stated HA 1 clarifies the number of members necessary for quorum and to constitute a majority vote.

Rep. Kowalko asked if this task force will continue into the next session.

Debbie Gottschalk of the Division of Research stated that this resolution would end on December 31<sup>st</sup>, 2018, however a new resolution could be created to continue work.

Rep. Kowalko asked if they are prepared to commit to continuing the MHOCOA task force into the next General Assembly if good work is being done.

Rep. Briggs King stated that with a Representative actively serving on the task force, much legislation would be produced to be prefiled in January 2019.

Chair Baumbach asked if changes could be made to make the first Representative the chair and the second Representative the vice-chair of the task force.

Rep. Briggs King agreed to make the changes.

Chair Baumbach asked for clarification as to what a real estate professional would bring to the table as a member of the board, and expressed his opposition to having these professionals involved.

Rep. Briggs King stated there were requests from some committee members to include a real estate agent as a voting member to add valuable information on this area of expertise. Additionally, she stated they needed an odd number of voting members.

Chair Baumbach stated that in the bill, this member would be a non-voting member; therefore he is not worried about having them included in discussion. He expressed concern about non-voting members affecting a quorum, and that many task forces are unable to get any work done due to the inability to reach a quorum. He identified in the amendment making changes so non-voting members are not included in the quorum.

Rep. Briggs King agreed to the changes.

Chair Baumbach opened the floor to public comment.

Robert Tunnell III of Pot-Net Communities stated his support for this resolution.

Mr. Kinnick stated he did not see a need for this task force. However, he stated if a task force were to form, he believed it could be more effective starting next General Assembly.

Mr. Walsh agreed the task force should begin in January.

Mr. Heisler agreed the task force should begin in January.

Mr. Paradee stated his support for this concept rather than piece-mealing legislation.

Mr. Strine stated his support for this resolution.

Mr. Neil stated his opposition to anything involving realtors. He questioned if Widener Law student would be involved.

Mr. Morton stated that even though work is already being done on issues in this area, HR 24 should still be released, and two groups could be working simultaneously. Additionally he believes realtors should be involved as non-voting members.

Tyler Berl of the Housing Alliance of Delaware stated his support for this resolution.

Rep. Carson stated after speaking to land owners and home owners who have been working together and making progress, he believes it is an inappropriate time to pass this resolution and proposed a later start date.

Chair Baumbach stated he does not want groups to work parallel to one another, however he does not want to miss an opportunity to work on important issues.

Rep. Carson stated he does not like things working parallel to one another, and stated they should let one group work now and at a later date consider a second group to accomplish more.

Rep. Kowalko asked to hear from the sponsor about this issue.

Rep. Briggs King stated that for over two years they have waited for a Widener Law student to be involved and at a different date they may become involved. She stated the community has been waiting a long time for things to happen and rather than waiting another six months, they should start now with HR 24.

Chair Baumbach asked the sponsor if she would be willing to add a 'whereas' clause for progress. This would acknowledge this task force has less priority when other things are happening but has more priority if the progress of other groups is lagging.

Rep. Briggs King stated she would like to move forward with amendments and release HR 24.

A motion was made by Rep. Kowalko and seconded by Rep. Yearick to release HR 24 from committee; motion carried. Yes = 4 (Baumbach, Kowalko, Briggs King, and Yearick); No = 2 (Matthews and Carson); Absent = 1 (Longhurst). This bill was released from committee with an F=0, M=4, U=1 vote.

Rep. Briggs King introduced **HB 383, AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO THE ACCEPTANCE OF RENT FOR MANUFACTURED HOME COMMUNITIES**. She explained this act requires an owner/landlord to accept rental payments from a manufactured home owner/tenant and makes the failure to accept a rental payment a retaliatory act. Additionally, this act adopts a provision of the Delaware Residential Landlord-Tenant Code that requires an owner/landlord to provide a receipt for a cash payment of rent and to maintain records of cash payments for 3 years.

Rep. Briggs King stated one of her constituents attempted to submit rent numerous times and the landlord repeatedly rejected payment. Eventually an eviction notice went out and the case went to court.

Rep. Yearick questioned if this was an isolated case.

Rep Briggs King explained this is the only case she knew about. However, she wants to prevent similar cases from happening.

Rep. Yearick stated his concern that a bill may not be necessary if this is an isolated case.

Rep. Briggs King expressed that these people were not served in the right way, and this bill should be released to ensure others are not treated in the same manner.

Chair Baumbach opened the floor to public comment.

Mr. Kinnick expressed concern for line 12. He stated a receipt should be given the day of payment or on the next business day if rent was submitted over the weekend, rather than within 15 days, as stated in the bill. He explained that in the last six months, he has had roughly 15 residents contact him regarding eviction notices, even after rent was submitted.

Mr. Walsh agreed to change the number of days to provide a receipt to a resident.

Mr. Paradee stated support for HB 383 and agreed the 15 days should be lowered. He suggested a receipt should be received 3 to 5 days after payment.

Mr. Heisler expressed his support for HB 383. He stated his concern that this does not address the issue of payment being rejected.

Nicole Faries of Baird Mendalas Brockstedt LLC, expressed concern that 'cash' is not defined.

Mr. Strine expressed support for the bill, except for the last sentence.

Mr. Neil expressed his support for this bill, and agreed a receipt should be issued within 2 days.

Mr. Morton stated they do not know the case that Rep. Briggs King discussed in depth and therefore it is assumed there are reasons why the landlord rejected payment. He stated that landlords of any size do not accept cash, which is outlined in their rental agreements and is agreeable under the code. He stated he supports the bill with the deletion of the last sentence.

Rep. Kowalko stated they will be taking the last sentence. He expressed his support for the bill, and stated that any protection is better than no protection.

Chair Baumbach requested the definition of 'cash' be included in the bill. Additionally, he asked the sponsor to look into language clarification on line 12 as well as the number of days a receipt may be given.

Rep. Briggs King stated the 15 days are consistent with code, however, she was willing to make a change to be 5 to 7 days.

Rep. Yearick asked if there should be a consequence to the landlord for not accepting payment.

Rep. Briggs King stated it would eventually become a financial consequence for the landlord.

A motion was made by Rep. Briggs King and seconded by Rep. Kowalko to released HB 383 from committee with the understanding that the discussed changes will be made, motion carried. Yes = 5 (Baumbach, Matthews, Kowalko, Briggs King, and Yearick); No = 1 (Carson); Absent = 1 (Longhurst). This bill was released from committee with an F=0, M=5, U=0 vote.

Chair Baumbach adjourned the meeting at 1:59 p.m.

Respectfully submitted by:

Juliann Emory

**Attendance List**

Robert Tunnel III, Pot-Nets Communities

Steve Class, Colonial East

W.M. Kinnick, Delaware Manufactured Home Owners Association

Jeri DeMoss, Delaware Manufactured Home Owners Association

Milton Stoup, Bon Ayre

Jerome Heisler, Reybold Group

Fred Neil, Wild Meadows

John Walsh, League of Women Voters

Michael Morton, Michael P. Morton Attorneys at Law

Clara McMichael, Delaware Manufactured Home Owners Association

Bobbie Hemmerich, Land Leased Homeowners Coalition & Delaware Manufactured Home Owners Association

Patrick J. McGill, American Association of Retired Persons

Joel Lichtenberg, Barclay Farms

Tyler Berl, Housing Alliance Delaware

Elizabeth Lewis, Hamilton Good Partners

Cornelia Northway, Aspen Meadows

John Paradee, Baird Mendalas Brockstedt LLC

Nicole Faries, Baird Mendalas Brockstedt LLC

Andy Strine, Investors Reality

Jack Walsdorf, Baywood

Debbie Gottschalk, Division of Research