

As Introduced

131st General Assembly

Regular Session

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S. B. No. 84

Senator Coley

Cosponsors: Senators Beagle, Hottinger, Uecker

A BILL

To amend sections 4781.40, 5301.072, and 5311.191 1
and to enact section 5321.131 of the Revised 2
Code to prohibit manufactured homes park 3
operators, condominium associations, 4
neighborhood associations, and landlords from 5
restricting the display of Ohio flags and blue 6
star banners, gold star banners, and other 7
service flags, and to prohibit manufactured 8
homes park operators and landlords from 9
restricting the display of the United States 10
flag. 11

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

Section 1. That sections 4781.40, 5301.072, and 5311.191 12
be amended and section 5321.131 of the Revised Code be enacted 13
to read as follows: 14

Sec. 4781.40. (A) (1) The park operator shall offer each 15
home owner a written rental agreement for a manufactured home 16
park lot for a term of one year or more that contains terms 17
essentially the same as any alternative month-to-month rental 18
agreement offered to current and prospective tenants and owners. 19

The park operator shall offer the minimum one-year rental agreement to the owner prior to installation of the home in the manufactured home park or, if the home is in the manufactured home park, prior to the expiration of the owner's existing rental agreement.

(2) The park operator shall deliver the offer to the owner by certified mail, return receipt requested, or in person. If the park operator delivers the offer to the owner in person, the owner shall complete a return showing receipt of the offer. If the owner does not accept the offer, the park operator is discharged from any obligation to make any further such offers. If the owner accepts the offer, the park operator shall, at the expiration of each successive rental agreement, offer the owner another rental agreement, for a term that is mutually agreed upon, and that contains terms essentially the same as the alternative month-to-month agreement. The park operator shall deliver subsequent rental offers by ordinary mail or personal delivery. If the park operator sells the manufactured home park to another manufactured home park operator, the purchaser is bound by the rental agreements entered into by the purchaser's predecessor.

(3) If the park operator sells the manufactured home park for a use other than as a manufactured home park, the park operator shall give each tenant and owner a written notification by certified mail, return receipt requested, or by handing it to the tenant or owner in person. If the park operator delivers the notification in person, the recipient shall complete a return showing receipt of the notification. This notification shall contain notice of the sale of the manufactured home park, and notice of the date by which the tenant or owner shall vacate. The date by which the tenant shall vacate shall be at least one

hundred twenty days after receipt of the written notification, 51
and the date by which the owner shall vacate shall be at least 52
one hundred eighty days after receipt of the written 53
notification. 54

(B) A park operator shall fully disclose in writing all 55
fees, charges, assessments, including rental fees, and rules 56
prior to a tenant or owner executing a rental agreement and 57
assuming occupancy in the manufactured home park. No fees, 58
charges, assessments, or rental fees so disclosed may be 59
increased nor rules changed by a park operator without 60
specifying the date of implementation of the changed fees, 61
charges, assessments, rental fees, or rules, which date shall be 62
not less than thirty days after written notice of the change and 63
its effective date to all tenants or owners in the manufactured 64
home park, and no fee, charge, assessment, or rental fee shall 65
be increased during the term of any tenant's or owner's rental 66
agreement. Failure on the part of the park operator to fully 67
disclose all fees, charges, or assessments shall prevent the 68
park operator from collecting the undisclosed fees, charges, or 69
assessments. If a tenant or owner refuses to pay any undisclosed 70
fees, charges, or assessments, the refusal shall not be used by 71
the park operator as a cause for eviction in any court. 72

(C) (1) A park operator shall promulgate rules governing 73
the rental or occupancy of a lot in the manufactured home park. 74
The rules shall not be unreasonable, arbitrary, or capricious. A 75
copy of the rules and any amendments to them shall be delivered 76
by the park operator to the tenant or owner prior to signing the 77
rental agreement. A copy of the rules and any amendments to them 78
shall be posted in a conspicuous place upon the manufactured 79
home park grounds. 80

(2) No park operator shall include any restriction in a rental agreement against, or otherwise prohibit on a tenant's or owner's rental property, any of the following: 81
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(a) The display of the flag of the United States if the flag is displayed in accordance with any of the following: 84
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(i) The patriotic customs set forth in 4 U.S.C. 5-10, governing the display and use of the flag of the United States; 86
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(ii) Federal law, state law, or any local ordinance or resolution; 88
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(iii) A proclamation of the president of the United States or the governor of the state. 90
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(b) The display of the state flag as defined in section 5.01 of the Revised Code if the flag is displayed in accordance with state law, any local ordinance or resolution, or proclamation by the governor of the state; 92
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(c) The display of a service flag approved by the United States secretary of defense for display in a window of the residence of a member of the immediate family of an individual serving in the armed forces of the United States. A service flag includes a blue star banner, a gold star banner, and any other flag the secretary of defense designates as a service flag. 96
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(3) Any violation of this division is against public policy and unenforceable. Any provision of a rental agreement that violates this division is an unconscionable term under section 4781.48 of the Revised Code. 102
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(D) No park operator shall require an owner to purchase from the park operator any personal property. The park operator may determine by rule the style or quality of skirting, 106
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equipment for tying down homes, manufactured or mobile home 109
accessories, or other equipment to be purchased by an owner from 110
a vendor of the owner's choosing, provided that the equipment is 111
readily available to the owner. Any such equipment shall be 112
installed in accordance with the manufactured home park rules. 113

(E) No park operator shall charge any owner who chooses to 114
install an electric or gas appliance in a home an additional fee 115
solely on the basis of the installation, unless the installation 116
is performed by the park operator at the request of the owner, 117
nor shall the park operator restrict the installation, service, 118
or maintenance of the appliance, restrict the ingress or egress 119
of repairpersons to the manufactured home park for the purpose 120
of installation, service, or maintenance of the appliance, nor 121
restrict the making of any interior improvement in a home, if 122
the installation or improvement is in compliance with applicable 123
building codes and other provisions of law and if adequate 124
utility services are available for the installation or 125
improvement. 126

(F) No park operator shall require a tenant to lease or an 127
owner to purchase a manufactured or mobile home from the park 128
operator or any specific person as a condition of or 129
prerequisite to entering into a rental agreement. 130

(G) No park operator shall require an owner to use the 131
services of the park operator or any other specific person for 132
installation of the manufactured or mobile home on the 133
residential premises or for the performance of any service. 134

(H) No park operator shall: 135

(1) Deny any owner the right to sell the owner's 136
manufactured home within the manufactured home park if the owner 137

gives the park operator ten days' notice of the intention to 138
sell the home; 139

(2) Require the owner to remove the home from the 140
manufactured home park solely on the basis of the sale of the 141
home; 142

(3) Unreasonably refuse to enter into a rental agreement 143
with a purchaser of a home located within the operator's 144
manufactured home park; 145

(4) Charge any tenant or owner any fee, charge, or 146
assessment, including a rental fee, that is not set forth in the 147
rental agreement or, if the rental agreement is oral, is not set 148
forth in a written disclosure given to the tenant or owner prior 149
to the tenant or owner entering into a rental agreement; 150

(5) Charge any owner any fee, charge, or assessment 151
because of the transfer of ownership of a home or because a home 152
is moved out of or into the manufactured home park, except a 153
charge for the actual costs and expenses that are incurred by 154
the park operator in moving the home out of or into the 155
manufactured home park, or in installing the home in the 156
manufactured home park and that have not been reimbursed by 157
another tenant or owner. 158

(I) If the park operator violates any provision of 159
divisions (A) to (H) of this section, the tenant or owner may 160
recover actual damages resulting from the violation, and, if the 161
tenant or owner obtains a judgment, reasonable attorneys' fees, 162
or terminate the rental agreement. 163

(J) No rental agreement shall require a tenant or owner to 164
sell, lease, or sublet the tenant's or owner's interest in the 165
rental agreement or the manufactured or mobile home that is or 166

will be located on the lot that is the subject of the rental 167
agreement to any specific person or through any specific person 168
as the person's agent. 169

(K) No park operator shall enter into a rental agreement 170
with the owner of a manufactured or mobile home for the use of 171
residential premises, if the rental agreement requires the owner 172
of the home, as a condition to the owner's renting, occupying, 173
or remaining on the residential premises, to pay the park 174
operator or any other person specified in the rental agreement a 175
fee or any sum of money based on the sale of the home, unless 176
the owner of the home uses the park operator or other person as 177
the owner's agent in the sale of the home. 178

(L) A park operator and a tenant or owner may include in a 179
rental agreement any terms and conditions, including any term 180
relating to rent, the duration of an agreement, and any other 181
provisions governing the rights and obligations of the parties 182
that are not inconsistent with or prohibited by sections ~~3733.09-~~ 183
4781.36 to 3733.20-4781.52 of the Revised Code or any other rule 184
of law. 185

(M) Notwithstanding any other provision of the Revised 186
Code, the owner of a manufactured or mobile home may utilize the 187
services of a manufactured housing dealer or broker licensed 188
under Chapter 4781. of the Revised Code or a person properly 189
licensed under Chapter 4735. of the Revised Code to sell or 190
lease the home. 191

Sec. 5301.072. (A) No covenant, condition, or restriction 192
set forth in a deed, and no rule, regulation, bylaw, or other 193
governing document or agreement of a homeowners, neighborhood, 194
civic, or other association, shall prohibit or be construed to 195
prohibit ~~the~~ any of the following: 196

(1) The placement on any property of a flagpole that is to 197
be used for the purpose of displaying, ~~or shall prohibit or be~~ 198
~~construed to prohibit~~ the flag of the United States or the flag 199
of the state as defined in section 5.01 of the Revised Code; 200

(2) The display on any property of, the flag of the United 201
States if the flag is displayed in accordance with any of the 202
following: 203

~~(1) (a)~~ The patriotic customs set forth in 4-U.S.C.A. 5- 204
~~10, as amended~~ U.S.C. 5-10, governing the display and use of the 205
flag of the United States; 206

~~(2) (b)~~ The consent of the property's owner or of any 207
person having lawful control of the property; 208

~~(3) (c)~~ The recommended flagpole standards set forth in 209
"Our Flag," published pursuant to S.C.R. 61 of the 105th 210
Congress, 1st Session (1998); 211

~~(4) (d)~~ Any federal law, proclamation of the president of 212
the United States or the governor, section of the Revised Code, 213
or local ordinance or resolution. 214

(3) The display on any property of the state flag as 215
defined in section 5.01 of the Revised Code if the flag is 216
displayed in accordance with any of the following: 217

(a) The consent of the property's owner or of any person 218
having lawful control of the property; 219

(b) Any state law, local ordinance or resolution, or 220
proclamation by the governor of the state. 221

(4) The display of a service flag approved by the United 222
States secretary of defense for display in a window of the 223
residence of a member of the immediate family of an individual 224

serving in the armed forces of the United States. A service flag 225
includes a blue star banner, a gold star banner, and any other 226
flag the secretary of defense designates as a service flag. 227

(B) A covenant, condition, restriction, rule, regulation, 228
bylaw, governing document, or agreement or a construction of any 229
of these items that violates division (A) of this section is 230
against public policy and unenforceable in any court of this 231
state to the extent it violates that division. 232

Sec. 5311.191. (A) No declaration, bylaw, rule, 233
regulation, or agreement of a condominium property or 234
construction of any of these items by the board of managers of 235
its unit owners association shall prohibit ~~the any of the~~ 236
following: 237

(1) The placement of a flagpole that is to be used for the 238
purpose of displaying, or shall prohibit the display of, the 239
flag of the United States on or within the limited common areas 240
and facilities of a unit owner or on the immediately adjacent 241
exterior of the building in which the unit of a unit owner is 242
located, if the flag is displayed in accordance with any of the 243
following: 244

~~(1)(a)~~ The patriotic customs set forth in ~~4 U.S.C.A. 5-~~ 245
~~10, as amended U.S.C. 5-10,~~ governing the display and use of the 246
flag of the United States; 247

~~(2)(b)~~ The recommended flagpole standards set forth in 248
"Our Flag," published pursuant to S.C.R. 61 of the 105th 249
Congress, 1st Session (1998); 250

~~(3)(c)~~ Any federal law, proclamation of the president of 251
the United States or the governor, section of the Revised Code, 252
or local ordinance or resolution. 253

(2) The placement of a flagpole that is to be used for the 254
purpose of displaying, or the display of the flag of the state 255
as defined in section 5.01 of the Revised Code on or within the 256
limited common areas and facilities of a unit owner or on the 257
immediately adjacent exterior of the building in which the unit 258
of a unit owner is located, if the flag is displayed in 259
accordance with any state law, local ordinance or resolution, or 260
proclamation by the governor of the state; 261

(3) The display of a service flag approved by the United 262
States secretary of defense for display in a window of the 263
residence of a member of the immediate family of an individual 264
serving in the armed forces of the United States. A service flag 265
includes a blue star banner, a gold star banner, and any other 266
flag the secretary of defense designates as a service flag. 267

(B) A declaration, bylaw, rule, regulation, or agreement 268
or the construction of any of these items that violates division 269
(A) of this section is against public policy and unenforceable 270
in any court of this state to the extent it violates that 271
division. 272

Sec. 5321.131. (A) No landlord shall include any 273
restriction in a rental agreement against, or otherwise prohibit 274
on a tenant's rental property, any of the following: 275

(1) The display of the flag of the United States if the 276
flag is displayed in accordance with any of the following: 277

(a) The patriotic customs set forth in 4 U.S.C. 5-10, 278
governing the display and use of the flag of the United States; 279

(b) Federal law, state law, or any local ordinance or 280
resolution; 281

(c) A proclamation of the president of the United States 282

or the governor of the state. 283

(2) The display of the state flag as defined in section 284
5.01 of the Revised Code if the flag is displayed in accordance 285
with state law, any local ordinance or resolution, or 286
proclamation by the governor of the state; 287

(3) The display of a service flag approved by the United 288
States secretary of defense for display in a window of the 289
residence of a member of the immediate family of an individual 290
serving in the armed forces of the United States. A service flag 291
includes a blue star banner, a gold star banner, and any other 292
flag the secretary of defense designates as a service flag. 293

(B) Any violation of this section is against public policy 294
and unenforceable. Any provision of a rental agreement that 295
violates this section is an unconscionable term under section 296
5321.14 of the Revised Code. 297

Section 2. That existing sections 4781.40, 5301.072, and 298
5311.191 of the Revised Code are hereby repealed. 299