

**As Reported by the Senate State and Local Government Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. S. B. No. 84**

**Senator Coley**

**Cosponsors: Senators Beagle, Hottinger, Uecker, LaRose**

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**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) A tenant who requests to display the flag of the United States at the rental property as provided in division (C) (2) of this section through the use of a flag pole shall contact the park operator with reasonable notice before installation of the flag pole to discuss the following: 102  
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(a) Placement in compliance with any local zoning restrictions and the required underground utility service 107  
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<u>requests (OUPS);</u>	109
<u>(b) Cost of the materials and installation;</u>	110
<u>(c) Installation in a workerlike manner if installed at</u> <u>the tenant's request and expense;</u>	111 112
<u>(d) Any lighting required to comply with division (C) (2)</u> <u>(a) (i) of this section;</u>	113 114
<u>(e) The appropriate size of the flag and flag pole, which</u> <u>shall be consistent with the size and character of the building.</u>	115 116
<u>(4) A tenant who requests to display the flag of the</u> <u>United States at the rental property as provided in division (C)</u> <u>(2) of this section through the use of a bracket to be</u> <u>permanently affixed to the manufactured home, shall contact the</u> <u>park operator with reasonable notice before installation of the</u> <u>bracket to discuss the following:</u>	117 118 119 120 121 122
<u>(a) Placement in compliance with any local zoning</u> <u>restrictions;</u>	123 124
<u>(b) Cost of the materials and installation;</u>	125
<u>(c) Preferred location of the bracket with installation to</u> <u>be performed in a workerlike manner if installed at the tenant's</u> <u>request and expense;</u>	126 127 128
<u>(d) Any lighting required to comply with division (C) (2)</u> <u>(a) (i) of this section;</u>	129 130
<u>(e) The appropriate size of the flag and flag pole, which</u> <u>shall be consistent with the size and character of the</u> <u>manufactured home.</u>	131 132 133
<u>(5) A tenant who owns the manufactured home but leases the</u> <u>lot and who requests to display the flag of the United States at</u>	134 135

the rental property as provided in division (C) (2) of this 136  
section through the use of a bracket to be permanently affixed 137  
to the manufactured home, shall contact the park operator with 138  
reasonable notice before installation of the bracket to discuss 139  
the following: 140

(a) Placement in compliance with any local zoning 141  
restrictions; 142

(b) Preferred location of the bracket to insure that there 143  
will be no encroachment of the flag or bracket onto common areas 144  
of the park; 145

(c) Any lighting required to comply with division (C) (2) 146  
(a) (i) of this section; 147

(d) The appropriate size of the flag and flag pole, which 148  
shall be consistent with the size and character of the 149  
manufactured home and surrounding manufactured home park. 150

(6) A park operator who does not receive the notifications 151  
required under divisions (C) (3) and (4) of this section is not 152  
liable for any damages, fines, or costs associated with any 153  
issues arising from the placement of the flag pole or the 154  
bracket by the tenant. 155

(7) Any display of the flag of the United States, shall 156  
use a flag or flag pole of an appropriate size, consistent with 157  
the size and character of the manufactured homes within the 158  
manufactured home park. 159

(8) Any violation of this division is against public 160  
policy and unenforceable. Any provision of a rental agreement 161  
that violates this division is an unconscionable term under 162  
section 4781.48 of the Revised Code. 163

(9) Nothing in this division exempts a tenant from a 164  
provision in a lease agreement that requires a tenant, at the 165  
termination of a lease, to return the premises in the same 166  
condition as they were in when the tenant took possession. 167

(D) No park operator shall require an owner to purchase 168  
from the park operator any personal property. The park operator 169  
may determine by rule the style or quality of skirting, 170  
equipment for tying down homes, manufactured or mobile home 171  
accessories, or other equipment to be purchased by an owner from 172  
a vendor of the owner's choosing, provided that the equipment is 173  
readily available to the owner. Any such equipment shall be 174  
installed in accordance with the manufactured home park rules. 175

(E) No park operator shall charge any owner who chooses to 176  
install an electric or gas appliance in a home an additional fee 177  
solely on the basis of the installation, unless the installation 178  
is performed by the park operator at the request of the owner, 179  
nor shall the park operator restrict the installation, service, 180  
or maintenance of the appliance, restrict the ingress or egress 181  
of repairpersons to the manufactured home park for the purpose 182  
of installation, service, or maintenance of the appliance, nor 183  
restrict the making of any interior improvement in a home, if 184  
the installation or improvement is in compliance with applicable 185  
building codes and other provisions of law and if adequate 186  
utility services are available for the installation or 187  
improvement. 188

(F) No park operator shall require a tenant to lease or an 189  
owner to purchase a manufactured or mobile home from the park 190  
operator or any specific person as a condition of or 191  
prerequisite to entering into a rental agreement. 192

(G) No park operator shall require an owner to use the 193

services of the park operator or any other specific person for 194  
installation of the manufactured or mobile home on the 195  
residential premises or for the performance of any service. 196

(H) No park operator shall: 197

(1) Deny any owner the right to sell the owner's 198  
manufactured home within the manufactured home park if the owner 199  
gives the park operator ten days' notice of the intention to 200  
sell the home; 201

(2) Require the owner to remove the home from the 202  
manufactured home park solely on the basis of the sale of the 203  
home; 204

(3) Unreasonably refuse to enter into a rental agreement 205  
with a purchaser of a home located within the operator's 206  
manufactured home park; 207

(4) Charge any tenant or owner any fee, charge, or 208  
assessment, including a rental fee, that is not set forth in the 209  
rental agreement or, if the rental agreement is oral, is not set 210  
forth in a written disclosure given to the tenant or owner prior 211  
to the tenant or owner entering into a rental agreement; 212

(5) Charge any owner any fee, charge, or assessment 213  
because of the transfer of ownership of a home or because a home 214  
is moved out of or into the manufactured home park, except a 215  
charge for the actual costs and expenses that are incurred by 216  
the park operator in moving the home out of or into the 217  
manufactured home park, or in installing the home in the 218  
manufactured home park and that have not been reimbursed by 219  
another tenant or owner. 220

(I) If the park operator violates any provision of 221  
divisions (A) to (H) of this section, the tenant or owner may 222

recover actual damages resulting from the violation, and, if the 223  
tenant or owner obtains a judgment, reasonable attorneys' fees, 224  
or terminate the rental agreement. 225

(J) No rental agreement shall require a tenant or owner to 226  
sell, lease, or sublet the tenant's or owner's interest in the 227  
rental agreement or the manufactured or mobile home that is or 228  
will be located on the lot that is the subject of the rental 229  
agreement to any specific person or through any specific person 230  
as the person's agent. 231

(K) No park operator shall enter into a rental agreement 232  
with the owner of a manufactured or mobile home for the use of 233  
residential premises, if the rental agreement requires the owner 234  
of the home, as a condition to the owner's renting, occupying, 235  
or remaining on the residential premises, to pay the park 236  
operator or any other person specified in the rental agreement a 237  
fee or any sum of money based on the sale of the home, unless 238  
the owner of the home uses the park operator or other person as 239  
the owner's agent in the sale of the home. 240

(L) A park operator and a tenant or owner may include in a 241  
rental agreement any terms and conditions, including any term 242  
relating to rent, the duration of an agreement, and any other 243  
provisions governing the rights and obligations of the parties 244  
that are not inconsistent with or prohibited by sections ~~3733.09-~~ 245  
4781.36 to 3733.20-4781.52 of the Revised Code or any other rule 246  
of law. 247

(M) Notwithstanding any other provision of the Revised 248  
Code, the owner of a manufactured or mobile home may utilize the 249  
services of a manufactured housing dealer or broker licensed 250  
under Chapter 4781. of the Revised Code or a person properly 251  
licensed under Chapter 4735. of the Revised Code to sell or 252

lease the home. 253

**Sec. 5301.072.** (A) No covenant, condition, or restriction 254  
set forth in a deed, and no rule, regulation, bylaw, or other 255  
governing document or agreement of a homeowners, neighborhood, 256  
civic, or other association, shall prohibit or be construed to 257  
prohibit ~~the~~ any of the following: 258

(1) The placement on any property of a flagpole that is to 259  
be used for the purpose of displaying, ~~or shall prohibit or be~~ 260  
~~construed to prohibit~~ the flag of the United States or the flag 261  
of the state as defined in section 5.01 of the Revised Code, 262  
provided the flag and flag pole shall be of an appropriate size, 263  
consistent with the size and character of the buildings that are 264  
subject to the requirements or agreements of a homeowner, 265  
neighborhood, civic, or other association; 266

(2) The display on any property of, the flag of the United 267  
States if the flag is displayed in accordance with any of the 268  
following: 269

~~(1)~~ (a) The patriotic customs set forth in 4-U.S.C.A. 5- 270  
10, as amended U.S.C. 5-10, governing the display and use of the 271  
flag of the United States; 272

~~(2)~~ (b) The consent of the property's owner or of any 273  
person having lawful control of the property; 274

~~(3)~~ (c) The recommended flagpole standards set forth in 275  
"Our Flag," published pursuant to S.C.R. 61 of the 105th 276  
Congress, 1st Session (1998); 277

~~(4)~~ (d) Any federal law, proclamation of the president of 278  
the United States or the governor, section of the Revised Code, 279  
or local ordinance or resolution. 280

(3) The display on any property of the state flag as 281  
defined in section 5.01 of the Revised Code if the flag is 282  
displayed in accordance with any of the following: 283

(a) The consent of the property's owner or of any person 284  
having lawful control of the property; 285

(b) Any state law, local ordinance or resolution, or 286  
proclamation by the governor of the state. 287

(4) 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) A covenant, condition, restriction, rule, regulation, 294  
bylaw, governing document, or agreement or a construction of any 295  
of these items that violates division (A) of this section is 296  
against public policy and unenforceable in any court of this 297  
state to the extent it violates that division. 298

**Sec. 5311.191.** (A) No declaration, bylaw, rule, 299  
regulation, or agreement of a condominium property or 300  
construction of any of these items by the board of managers of 301  
its unit owners association shall prohibit ~~the any of the~~ 302  
following: 303

(1) The placement of a flagpole that is to be used for the 304  
purpose of displaying, or ~~shall prohibit~~ the display of, 305  
the flag of the United States on or within the limited common areas 306  
and facilities of a unit owner or on the immediately adjacent 307  
exterior of the building in which the unit of a unit owner is 308  
located, if the flag is displayed in accordance with any of the 309

following: 310

~~(1) (a)~~ The patriotic customs set forth in ~~4 U.S.C.A. 5-~~ 311  
~~10, as amended~~ U.S.C. 5-10, governing the display and use of the 312  
flag of the United States; 313

~~(2) (b)~~ The recommended flagpole standards set forth in 314  
"Our Flag," published pursuant to S.C.R. 61 of the 105th 315  
Congress, 1st Session (1998); 316

~~(3) (c)~~ Any federal law, proclamation of the president of 317  
the United States or the governor, section of the Revised Code, 318  
or local ordinance or resolution. 319

(2) The placement of a flagpole that is to be used for the 320  
purpose of displaying, or the display of the flag of the state 321  
as defined in section 5.01 of the Revised Code on or within the 322  
limited common areas and facilities of a unit owner or on the 323  
immediately adjacent exterior of the building in which the unit 324  
of a unit owner is located, if the flag is displayed in 325  
accordance with any state law, local ordinance or resolution, or 326  
proclamation by the governor of the state; 327

(3) The display of a service flag approved by the United 328  
States secretary of defense for display in a window of the 329  
residence of a member of the immediate family of an individual 330  
serving in the armed forces of the United States. A service flag 331  
includes a blue star banner, a gold star banner, and any other 332  
flag the secretary of defense designates as a service flag. 333

(B) Any display of the flag of the United States, shall 334  
use a flag or flag pole of an appropriate size, consistent with 335  
the size and character of the condominium buildings and common 336  
areas. 337

(C) A declaration, bylaw, rule, regulation, or agreement 338

or the construction of any of these items that violates division 339  
(A) of this section is against public policy and unenforceable 340  
in any court of this state to the extent it violates that 341  
division. 342

Sec. 5321.131. (A) No landlord shall include any 343  
restriction in a rental agreement against, or otherwise prohibit 344  
on a tenant's rental property, any of the following: 345

(1) The display of the flag of the United States if the 346  
flag is displayed in accordance with any of the following: 347

(a) The patriotic customs set forth in 4 U.S.C. 5-10, 348  
governing the display and use of the flag of the United States; 349

(b) Federal law, state law, or any local ordinance or 350  
resolution; 351

(c) A proclamation of the president of the United States 352  
or the governor of the state. 353

(2) The display of the state flag as defined in section 354  
5.01 of the Revised Code if the flag is displayed in accordance 355  
with state law, any local ordinance or resolution, or 356  
proclamation by the governor of the state; 357

(3) The display of a service flag approved by the United 358  
States secretary of defense for display in a window of the 359  
residence of a member of the immediate family of an individual 360  
serving in the armed forces of the United States. A service flag 361  
includes a blue star banner, a gold star banner, and any other 362  
flag the secretary of defense designates as a service flag. 363

(B) (1) A tenant who requests to display the flag of the 364  
United States at the rental property as provided in division (A) 365  
(1) of this section through the use of a flag pole shall contact 366

the landlord with reasonable notice before installation of the 367  
flag pole to discuss the following: 368

(a) Placement in compliance with any local zoning 369  
restrictions and the required underground utility service 370  
requests (OUPS); 371

(b) Cost of the materials and installation; 372

(c) Installation in a workerlike manner if installed at 373  
the tenant's request and expense; 374

(d) Any lighting required to comply with division (A) (1) 375  
(a) of this section; 376

(e) The appropriate size of the flag and flag pole, which 377  
shall be consistent with the size and character of the building. 378

(2) A tenant who requests to display the flag of the 379  
United States at the rental property as provided in division (A) 380  
(1) of this section through the use of a bracket to be 381  
permanently affixed to the unit, shall contact the landlord with 382  
reasonable notice before installation of the bracket to discuss 383  
the following: 384

(a) Placement in compliance with any local zoning 385  
restrictions; 386

(b) Cost of the materials and installation; 387

(c) Preferred location of the bracket with installation to 388  
be performed in a workerlike manner if installed at the tenant's 389  
request and expense; 390

(d) Any lighting required to comply with division (A) (1) 391  
(a) of this section; 392

(e) The appropriate size of the flag and flag pole, which 393

shall be consistent with the size and character of the building. 394

(C) A landlord who does not receive the notifications 395  
required under division (B) of this section is not liable for 396  
any damages, fines, or costs associated with any issues arising 397  
from the placement of the flag pole or the bracket by the 398  
tenant. 399

(D) Any violation of this section is against public policy 400  
and unenforceable. Any provision of a rental agreement that 401  
violates this section is an unconscionable term under section 402  
5321.14 of the Revised Code. 403

(E) Nothing in division (B) of this section exempts a 404  
tenant from a provision in a lease agreement that requires a 405  
tenant, at the termination of a lease, to return the premises in 406  
the same condition as they were in when the tenant took 407  
possession. 408

**Section 2.** That existing sections 4781.40, 5301.072, and 409  
5311.191 of the Revised Code are hereby repealed. 410