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Senator Coley

**Cosponsors: Senators Beagle, Hottinger, Uecker, LaRose, Balderson, Eklund,
Gardner, Gentile, Hite, Lehner, Manning, Obhof, Oelslager, Patton, Peterson,
Sawyer, Schiavoni, Tavares, Thomas, Widener, Yuko**

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 20
agreement to the owner prior to installation of the home in the 21
manufactured home park or, if the home is in the manufactured 22
home park, prior to the expiration of the owner's existing 23
rental agreement. 24

(2) The park operator shall deliver the offer to the owner 25
by certified mail, return receipt requested, or in person. If 26
the park operator delivers the offer to the owner in person, the 27
owner shall complete a return showing receipt of the offer. If 28
the owner does not accept the offer, the park operator is 29
discharged from any obligation to make any further such offers. 30
If the owner accepts the offer, the park operator shall, at the 31
expiration of each successive rental agreement, offer the owner 32
another rental agreement, for a term that is mutually agreed 33
upon, and that contains terms essentially the same as the 34
alternative month-to-month agreement. The park operator shall 35
deliver subsequent rental offers by ordinary mail or personal 36
delivery. If the park operator sells the manufactured home park 37
to another manufactured home park operator, the purchaser is 38
bound by the rental agreements entered into by the purchaser's 39
predecessor. 40

(3) If the park operator sells the manufactured home park 41
for a use other than as a manufactured home park, the park 42
operator shall give each tenant and owner a written notification 43
by certified mail, return receipt requested, or by handing it to 44
the tenant or owner in person. If the park operator delivers the 45
notification in person, the recipient shall complete a return 46
showing receipt of the notification. This notification shall 47
contain notice of the sale of the manufactured home park, and 48

notice of the date by which the tenant or owner shall vacate. 49
The date by which the tenant shall vacate shall be at least one 50
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 107

<u>restrictions and the required underground utility service</u>	108
<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>	111
<u>the tenant's request and expense;</u>	112
<u>(d) Any lighting required to comply with division (C) (2)</u>	113
<u>(a) (i) of this section;</u>	114
<u>(e) The appropriate size of the flag and flag pole, which</u>	115
<u>shall be consistent with the size and character of the building.</u>	116
<u>(4) A tenant who requests to display the flag of the</u>	117
<u>United States at the rental property as provided in division (C)</u>	118
<u>(2) of this section through the use of a bracket to be</u>	119
<u>permanently affixed to the manufactured home, shall contact the</u>	120
<u>park operator with reasonable notice before installation of the</u>	121
<u>bracket to discuss the following:</u>	122
<u>(a) Placement in compliance with any local zoning</u>	123
<u>restrictions;</u>	124
<u>(b) Cost of the materials and installation;</u>	125
<u>(c) Preferred location of the bracket with installation to</u>	126
<u>be performed in a workerlike manner if installed at the tenant's</u>	127
<u>request and expense;</u>	128
<u>(d) Any lighting required to comply with division (C) (2)</u>	129
<u>(a) (i) of this section;</u>	130
<u>(e) The appropriate size of the flag and flag pole, which</u>	131
<u>shall be consistent with the size and character of the</u>	132
<u>manufactured home.</u>	133
<u>(5) A tenant who owns the manufactured home but leases the</u>	134

lot and who requests to display the flag of the United States at 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 provision in a lease agreement that requires a tenant, at the termination of a lease, to return the premises in the same condition as they were in when the tenant took possession.

(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, equipment for tying down homes, manufactured or mobile home accessories, or other equipment to be purchased by an owner from a vendor of the owner's choosing, provided that the equipment is readily available to the owner. Any such equipment shall be installed in accordance with the manufactured home park rules.

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

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

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

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