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S. B. No. 202

Senator Schaffer

Cosponsors: Senators Brenner, Chavez, Cirino, Cutrona, Gavarone, Landis, Manning, O'Brien, Patton, Reineke, Reynolds, Romanchuk, Smith, Timken, Wilkin, Wilson

To amend sections 4781.40, 5301.072, 5311.191, and 5321.131 of the Revised Code to prohibit manufactured home park operators, condominium associations, neighborhood associations, and landlords from restricting the display of the thin blue line flag and to name this act the Chief Steven DiSario Act.

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

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

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

(2) The park operator shall deliver the offer to the owner 20
by certified mail, return receipt requested, or in person. If 21
the park operator delivers the offer to the owner in person, the 22
owner shall complete a return showing receipt of the offer. If 23
the owner does not accept the offer, the park operator is 24
discharged from any obligation to make any further such offers. 25
If the owner accepts the offer, the park operator shall, at the 26
expiration of each successive rental agreement, offer the owner 27
another rental agreement, for a term that is mutually agreed 28
upon, and that contains terms essentially the same as the 29
alternative month-to-month agreement. The park operator shall 30
deliver subsequent rental offers by ordinary mail or personal 31
delivery. If the park operator sells the manufactured home park 32
to another manufactured home park operator, the purchaser is 33
bound by the rental agreements entered into by the purchaser's 34
predecessor. 35

(3) If the park operator sells the manufactured home park 36
for a use other than as a manufactured home park, the park 37
operator shall give each tenant and owner a written notification 38
by certified mail, return receipt requested, or by handing it to 39
the tenant or owner in person. If the park operator delivers the 40
notification in person, the recipient shall complete a return 41
showing receipt of the notification. This notification shall 42
contain notice of the sale of the manufactured home park, and 43
notice of the date by which the tenant or owner shall vacate. 44
The date by which the tenant shall vacate shall be at least one 45
hundred twenty days after receipt of the written notification, 46
and the date by which the owner shall vacate shall be at least 47
one hundred eighty days after receipt of the written 48
notification. 49

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

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

(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:

(a) The display of the flag of the United States or the

national league of families POW/MIA flag if the flag is 80
displayed in accordance with any of the following: 81

(i) The patriotic customs set forth in 4 U.S.C. 5-10, and 82
36 U.S.C. 902, governing the display and use of the flag; 83

(ii) Federal law, state law, or any local ordinance or 84
resolution; 85

(iii) A proclamation of the president of the United States 86
or the governor of the state. 87

(b) The display of the state flag as defined in section 88
5.01 of the Revised Code if the flag is displayed in accordance 89
with state law, any local ordinance or resolution, or 90
proclamation by the governor of the state; 91

(c) The display of a service flag approved by the United 92
States secretary of defense for display in a window of the 93
residence of a member of the immediate family of an individual 94
serving in the armed forces of the United States. A service flag 95
includes a blue star banner, a gold star banner, and any other 96
flag the secretary of defense designates as a service flag. 97

(d) The display of a thin blue line flag or emblem on a 98
flag pole, through the use of a bracket, or in a window in 99
accordance with any state law, any local ordinance or 100
resolution, or a proclamation by the governor of the state. 101

(3) A tenant who requests to display the flag of the 102
United States ~~or~~, the national league of families POW/MIA flag, 103
or the thin blue line flag at the rental property as provided in 104
division (C) (2) of this section through the use of a flag pole 105
shall contact the park operator with reasonable notice before 106
installation of the flag pole to discuss the following: 107

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| (a) Placement in compliance with any local zoning restrictions and the required underground utility service requests (OUPS); | 108 109 110 |
| (b) Cost of the materials and installation; | 111 |
| (c) Installation in a workerlike manner if installed at the tenant's request and expense; | 112 113 |
| (d) Any lighting required to comply with division (C) (2) (a) (i) of this section; | 114 115 |
| (e) The appropriate size of the flag and flag pole, which shall be consistent with the size and character of the building. | 116 117 |
| (4) A tenant who requests to display the flag of the United States or , the national league of families POW/MIA flag, <u>or the thin blue line flag</u> at the rental property as provided in division (C) (2) of this section through the use of a bracket to be permanently affixed to the manufactured home, shall contact the park operator with reasonable notice before installation of the bracket to discuss the following: | 118 119 120 121 122 123 124 |
| (a) Placement in compliance with any local zoning restrictions; | 125 126 |
| (b) Cost of the materials and installation; | 127 |
| (c) Preferred location of the bracket with installation to be performed in a workerlike manner if installed at the tenant's request and expense; | 128 129 130 |
| (d) Any lighting required to comply with division (C) (2) (a) (i) of this section; | 131 132 |
| (e) The appropriate size of the flag and flag pole, which shall be consistent with the size and character of the | 133 134 |

manufactured home. 135

(5) A tenant who owns the manufactured home but leases the 136
lot and who requests to display the flag of the United States ~~or~~ 137
, the national league of families POW/MIA flag, or the thin blue 138
line flag at the rental property as provided in division (C) (2) 139
of this section through the use of a bracket to be permanently 140
affixed to the manufactured home, shall contact the park 141
operator with reasonable notice before installation of the 142
bracket to discuss the following: 143

(a) Placement in compliance with any local zoning 144
restrictions; 145

(b) Preferred location of the bracket to insure that there 146
will be no encroachment of the flag or bracket onto common areas 147
of the park; 148

(c) Any lighting required to comply with division (C) (2) 149
(a) (i) of this section; 150

(d) The appropriate size of the flag and flag pole, which 151
shall be consistent with the size and character of the 152
manufactured home and surrounding manufactured home park. 153

(6) A park operator who does not receive the notifications 154
required under divisions (C) (3) and (4) of this section is not 155
liable for any damages, fines, or costs associated with any 156
issues arising from the placement of the flag pole or the 157
bracket by the tenant. 158

(7) Any display of the flag of the United States ~~or~~, the 159
national league of families POW/MIA flag, or the thin blue line 160
flag shall use a flag or flag pole of an appropriate size, 161
consistent with the size and character of the manufactured homes 162
within the manufactured home park. 163

(8) Any violation of this division is against public 164
policy and unenforceable. Any provision of a rental agreement 165
that violates this division is an unconscionable term under 166
section 4781.48 of the Revised Code. 167

(9) Nothing in this division exempts a tenant from a 168
provision in a lease agreement that requires a tenant, at the 169
termination of a lease, to return the premises in the same 170
condition as they were in when the tenant took possession. 171

(10) As used in division (C) of this section, "thin blue 172
line flag" and "thin blue line emblem" mean a flag or emblem 173
depicting a flag, similar to the flag of the United States, 174
consisting of both of the following elements: 175

(a) A black rectangle in the upper hoist corner bearing 176
fifty white five-pointed stars arranged in nine offset 177
horizontal rows; 178

(b) Thirteen horizontal stripes of equal height, the top 179
and bottom stripe being black, and alternating white and black 180
stripes in between, except that the eighth horizontal stripe 181
from the top of the flag or emblem, which appears directly below 182
the field of stars, is blue rather than white. 183

(D) No park operator shall require an owner to purchase 184
from the park operator any personal property. The park operator 185
may determine by rule the style or quality of skirting, 186
equipment for tying down homes, manufactured or mobile home 187
accessories, or other equipment to be purchased by an owner from 188
a vendor of the owner's choosing, provided that the equipment is 189
readily available to the owner. Any such equipment shall be 190
installed in accordance with the manufactured home park rules. 191

(E) No park operator shall charge any owner who chooses to 192

install an electric or gas appliance in a home an additional fee 193
solely on the basis of the installation, unless the installation 194
is performed by the park operator at the request of the owner, 195
nor shall the park operator restrict the installation, service, 196
or maintenance of the appliance, restrict the ingress or egress 197
of repairpersons to the manufactured home park for the purpose 198
of installation, service, or maintenance of the appliance, nor 199
restrict the making of any interior improvement in a home, if 200
the installation or improvement is in compliance with applicable 201
building codes and other provisions of law and if adequate 202
utility services are available for the installation or 203
improvement. 204

(F) No park operator shall require a tenant to lease or an 205
owner to purchase a manufactured or mobile home from the park 206
operator or any specific person as a condition of or 207
prerequisite to entering into a rental agreement. 208

(G) No park operator shall require an owner to use the 209
services of the park operator or any other specific person for 210
installation of the manufactured or mobile home on the 211
residential premises or for the performance of any service. 212

(H) No park operator shall: 213

(1) Deny any owner the right to sell the owner's 214
manufactured home within the manufactured home park if the owner 215
gives the park operator ten days' notice of the intention to 216
sell the home; 217

(2) Require the owner to remove the home from the 218
manufactured home park solely on the basis of the sale of the 219
home; 220

(3) Unreasonably refuse to enter into a rental agreement 221

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| with a purchaser of a home located within the operator's | 222 |
| manufactured home park; | 223 |
| (4) Charge any tenant or owner any fee, charge, or | 224 |
| assessment, including a rental fee, that is not set forth in the | 225 |
| rental agreement or, if the rental agreement is oral, is not set | 226 |
| forth in a written disclosure given to the tenant or owner prior | 227 |
| to the tenant or owner entering into a rental agreement; | 228 |
| (5) Charge any owner any fee, charge, or assessment | 229 |
| because of the transfer of ownership of a home or because a home | 230 |
| is moved out of or into the manufactured home park, except a | 231 |
| charge for the actual costs and expenses that are incurred by | 232 |
| the park operator in moving the home out of or into the | 233 |
| manufactured home park, or in installing the home in the | 234 |
| manufactured home park and that have not been reimbursed by | 235 |
| another tenant or owner. | 236 |
| (I) If the park operator violates any provision of | 237 |
| divisions (A) to (H) of this section, the tenant or owner may | 238 |
| recover actual damages resulting from the violation, and, if the | 239 |
| tenant or owner obtains a judgment, reasonable attorneys' fees, | 240 |
| or terminate the rental agreement. | 241 |
| (J) No rental agreement shall require a tenant or owner to | 242 |
| sell, lease, or sublet the tenant's or owner's interest in the | 243 |
| rental agreement or the manufactured or mobile home that is or | 244 |
| will be located on the lot that is the subject of the rental | 245 |
| agreement to any specific person or through any specific person | 246 |
| as the person's agent. | 247 |
| (K) No park operator shall enter into a rental agreement | 248 |
| with the owner of a manufactured or mobile home for the use of | 249 |
| residential premises, if the rental agreement requires the owner | 250 |

of the home, as a condition to the owner's renting, occupying, 251
or remaining on the residential premises, to pay the park 252
operator or any other person specified in the rental agreement a 253
fee or any sum of money based on the sale of the home, unless 254
the owner of the home uses the park operator or other person as 255
the owner's agent in the sale of the home. 256

(L) A park operator and a tenant or owner may include in a 257
rental agreement any terms and conditions, including any term 258
relating to rent, the duration of an agreement, and any other 259
provisions governing the rights and obligations of the parties 260
that are not inconsistent with or prohibited by sections 4781.36 261
to 4781.52 of the Revised Code or any other rule of law. 262

(M) Notwithstanding any other provision of the Revised 263
Code, the owner of a manufactured or mobile home may utilize the 264
services of a manufactured housing dealer or broker licensed 265
under Chapter 4781. of the Revised Code or a person properly 266
licensed under Chapter 4735. of the Revised Code to sell or 267
lease the home. 268

Sec. 5301.072. (A) No covenant, condition, or restriction 269
set forth in a deed, and no rule, regulation, bylaw, or other 270
governing document or agreement of a homeowners, neighborhood, 271
civic, or other association, shall prohibit or be construed to 272
prohibit any of the following: 273

(1) The placement on any property of a flagpole that is to 274
be used for the purpose of displaying the flag of the United 275
States, the flag of the state as defined in section 5.01 of the 276
Revised Code, ~~or~~ the national league of families POW/MIA flag, 277
or the thin blue line flag provided the flag and flag pole shall 278
be of an appropriate size, consistent with the size and 279
character of the buildings that are subject to the requirements 280

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| or agreements of a homeowner, neighborhood, civic, or other association; | 281 282 |
| (2) The display on any property of the flag of the United States or the national league of families POW/MIA flag if the flag is displayed in accordance with any of the following: | 283 284 285 |
| (a) The patriotic customs set forth in 4 U.S.C. 5-10, and 36 U.S.C. 902 governing the display and use of the flag; | 286 287 |
| (b) The consent of the property's owner or of any person having lawful control of the property; | 288 289 |
| (c) The recommended flagpole standards set forth in "Our Flag," published pursuant to S.C.R. 61 of the 105th Congress, 1st Session (1998); | 290 291 292 |
| (d) Any federal law, proclamation of the president of the United States or the governor, section of the Revised Code, or local ordinance or resolution. | 293 294 295 |
| (3) The display on any property of the state flag as defined in section 5.01 of the Revised Code if the flag is displayed in accordance with any of the following: | 296 297 298 |
| (a) The consent of the property's owner or of any person having lawful control of the property; | 299 300 |
| (b) Any state law, local ordinance or resolution, or proclamation by the governor of the state. | 301 302 |
| (4) 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._ | 303 304 305 306 307 308 |

(5) The display of a thin blue line flag or emblem on any property on a flag pole, through the use of a bracket, or in a window if the flag is displayed in accordance with any of the following: 309
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(a) The consent of the property's owner or of any person having lawful control of the property; 313
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(b) Any state law, local ordinance or resolution, or proclamation by the governor of the state. 315
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(B) A covenant, condition, restriction, rule, regulation, bylaw, governing document, or agreement or a construction of any of these items that violates division (A) of this section is against public policy and unenforceable in any court of this state to the extent it violates that division. 317
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(C) As used in this section, "thin blue line flag" and "thin blue line emblem" have the same meanings as in section 4781.40 of the Revised Code. 322
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Sec. 5311.191. (A) No declaration, bylaw, rule, regulation, or agreement of a condominium property or construction of any of these items by the board of managers of its unit owners association shall prohibit any of the following: 325
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(1) The placement of a flagpole that is to be used for the purpose of displaying, or the display of the flag of the United States or the national league of families POW/MIA flag on or within the limited common areas and facilities of a unit owner or on the immediately adjacent exterior of the building in which the unit of a unit owner is located, if the flag is displayed in accordance with any of the following: 329
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(a) The patriotic customs set forth in 4 U.S.C. 5-10, and 36 U.S.C. 902, governing the display and use of the flag; 336
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(b) The recommended flagpole standards set forth in "Our Flag," published pursuant to S.C.R. 61 of the 105th Congress, 1st Session (1998);

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

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

(3) 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.

(4) The display of a thin blue line flag or emblem on a flag pole, through the use of a bracket, or in a window on or within the limited common areas and facilities of a unit owner, or on the immediately adjacent exterior of the building in which the unit of a unit owner is located, if the flag or emblem is displayed in accordance with any state law, local ordinance or resolution, or a proclamation by the governor of the state.

(B) Any display of the flag of the United States ~~or~~, the national league of families POW/MIA flag, or the thin blue line

flag shall use a flag or flag pole of an appropriate size, 367
consistent with the size and character of the condominium 368
buildings and common areas. 369

(C) A declaration, bylaw, rule, regulation, or agreement 370
or the construction of any of these items that violates division 371
(A) of this section is against public policy and unenforceable 372
in any court of this state to the extent it violates that 373
division. 374

(D) As used in this section, "thin blue line flag" and 375
"thin blue line emblem" have the same meanings as in section 376
4781.40 of the Revised Code. 377

Sec. 5321.131. (A) No landlord shall include any 378
restriction in a rental agreement against, or otherwise prohibit 379
on a tenant's rental property, any of the following: 380

(1) The display of the flag of the United States or the 381
national league of families POW/MIA flag if the flag is 382
displayed in accordance with any of the following: 383

(a) The patriotic customs set forth in 4 U.S.C. 5-10, and 384
36 U.S.C. 902, governing the display and use of the flag; 385

(b) Federal law, state law, or any local ordinance or 386
resolution; 387

(c) A proclamation of the president of the United States 388
or the governor of the state. 389

(2) The display of the state flag as defined in section 390
5.01 of the Revised Code if the flag is displayed in accordance 391
with state law, any local ordinance or resolution, or 392
proclamation by the governor of the state; 393

(3) The display of a service flag approved by the United 394

States secretary of defense for display in a window of the 395
residence of a member of the immediate family of an individual 396
serving in the armed forces of the United States. A service flag 397
includes a blue star banner, a gold star banner, and any other 398
flag the secretary of defense designates as a service flag. 399

(4) The display of a thin blue line flag or emblem on a 400
flag pole, through the use of a bracket, or in a window if 401
displayed in accordance with any state law, local ordinance or 402
resolution, or proclamation by the governor of the state. 403

(B) (1) A tenant who requests to display the flag of the 404
United States ~~or~~, the national league of families POW/MIA flag, 405
or a thin blue line flag at the rental property as provided in 406
~~division~~ divisions (A) (1) and (4) of this section through the 407
use of a flag pole shall contact the landlord with reasonable 408
notice before installation of the flag pole to discuss the 409
following: 410

(a) Placement in compliance with any local zoning 411
restrictions and the required underground utility service 412
requests (OUPS); 413

(b) Cost of the materials and installation; 414

(c) Installation in a workerlike manner if installed at 415
the tenant's request and expense; 416

(d) Any lighting required to comply with division (A) (1) 417
(a) of this section; 418

(e) The appropriate size of the flag and flag pole, which 419
shall be consistent with the size and character of the building. 420

(2) A tenant who requests to display the flag of the 421
United States ~~or~~, the national league of families POW/MIA flag, 422

or a thin blue line flag at the rental property as provided in 423
~~division~~divisions (A) (1) and (4) of this section through the 424
use of a bracket to be permanently affixed to the unit, shall 425
contact the landlord with reasonable notice before installation 426
of the bracket to discuss the following: 427

(a) Placement in compliance with any local zoning 428
restrictions; 429

(b) Cost of the materials and installation; 430

(c) Preferred location of the bracket with installation to 431
be performed in a workerlike manner if installed at the tenant's 432
request and expense; 433

(d) Any lighting required to comply with division (A) (1) 434
(a) of this section; 435

(e) The appropriate size of the flag and flag pole, which 436
shall be consistent with the size and character of the building. 437

(C) A landlord who does not receive the notifications 438
required under division (B) of this section is not liable for 439
any damages, fines, or costs associated with any issues arising 440
from the placement of the flag pole or the bracket by the 441
tenant. 442

(D) Any violation of this section is against public policy 443
and unenforceable. Any provision of a rental agreement that 444
violates this section is an unconscionable term under section 445
5321.14 of the Revised Code. 446

(E) Nothing in division (B) of this section exempts a 447
tenant from a provision in a lease agreement that requires a 448
tenant, at the termination of a lease, to return the premises in 449
the same condition as they were in when the tenant took 450

possession. 451

(F) As used in this section, "thin blue line flag" and 452
"thin blue line emblem" have the same meanings as in section 453
4781.40 of the Revised Code. 454

Section 2. That existing sections 4781.40, 5301.072, 455
5311.191, and 5321.131 of the Revised Code are hereby repealed. 456