As Reported by the House Government Oversight Committee

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Senator Schaffer

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

Representative Gross

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.

(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, and the date by which the owner shall vacate shall be at least one hundred eighty days after receipt of the written

notification.

(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 displayed in accordance with any of the following:

(i) 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;

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

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

(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;

(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.

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

(3) A tenant who requests to display the flag of the United States ~~or~~, the national league of families POW/MIA flag, or the thin blue line flag 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:

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

(b) Cost of the materials and installation;

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

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

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

(4) A tenant who requests to display the flag of the United States ~~or~~, the national league of families POW/MIA flag, or the thin blue line flag 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:

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

(b) Cost of the materials and installation;

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

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

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

manufactured home.

(5) A tenant who owns the manufactured home but leases the lot and who requests to display the flag of the United States ~~or~~ , the national league of families POW/MIA flag, or the thin blue line flag 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:

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

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

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

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

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

(7) 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, consistent with the size and character of the manufactured homes within the manufactured home park.

(8) 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.

(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._

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

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

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

(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 installation of the manufactured or mobile home on the residential premises or for the performance of any service.

(H) No park operator shall:

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

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

(3) Unreasonably refuse to enter into a rental agreement

with a purchaser of a home located within the operator's manufactured home park;

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

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

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

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

(K) No park operator shall enter into a rental agreement with the owner of a manufactured or mobile home for the use of residential premises, if the rental agreement requires the owner

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

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

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

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

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

or agreements of a homeowner, neighborhood, civic, or other association;

(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:

(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;

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

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

(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.

(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:

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

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

(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._

(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:

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

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

(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.

(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.

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:

(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:

(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;

(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, consistent with the size and character of the condominium buildings and common areas.

(C) A declaration, bylaw, rule, regulation, or agreement or the 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.

(D) 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.

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

(1) The display 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:

(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;

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

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

(2) 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;

(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 if displayed in accordance with any state law, local ordinance or resolution, or proclamation by the governor of the state.

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

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

(b) Cost of the materials and installation;

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

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

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

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

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

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

(b) Cost of the materials and installation;

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

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

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

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

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

(E) Nothing in division (B) of this section 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.

(F) 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.

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