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Sub. H. B. No. 18

Representatives Gonzales, Ginter

Cosponsors: Representatives Amstutz, Becker, Blessing, Brenner, Buchy, Dever, Grossman, Hayes, Johnson, T., Kraus, Leland, Phillips, Rezabek, Roegner, Terhar, Vitale, Young, Perales, Anielski, Bishoff, Landis, O'Brien, M., Retherford, Zeltwanger, Antani, Antonio, Ashford, Baker, Barnes, Boose, Brown, Burkley, Butler, Celebrezze, Clyde, Craig, Cupp, Derickson, DeVitis, Dovilla, Driehaus, Duffey, Green, Hackett, Hagan, Hall, Hambley, Henne, Hill, Johnson, G., Koehler, Kuhns, Kunze, Lepore-Hagan, McClain, McColley, O'Brien, S., Patterson, Ramos, Reece, Reineke, Rogers, Romanchuk, Ruhl, Ryan, Schaffer, Scherer, Schuring, Sears, Sheehy, Slaby, Slesnick, Smith, K., Smith, R., Sprague, Sweeney, Thompson, Speaker Rosenberger

A BILL

To amend sections 5301.072 and 5311.191 and to 1
enact sections 4781.401 and 5321.131 of the 2
Revised Code to prohibit manufactured homes park 3
operators, condominium associations, 4
neighborhood associations, and landlords from 5
restricting the display of blue star banners, 6
gold star banners, other service flags, and the 7
POW/MIA flag, and to prohibit manufactured homes 8
park operators and landlords from restricting 9
the display of the United States flag. 10

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

Section 1. That sections 5301.072 and 5311.191 be amended 11
and sections 4781.401 and 5321.131 of the Revised Code be 12
enacted to read as follows: 13

Sec. 4781.401. (A) No restriction set forth in a rental agreement shall prohibit or be construed to prohibit either of the following: 14
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(1) The display, on the tenant's rental 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: 17
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(a) The patriotic customs set forth in 4 U.S.C. 5 to 10, as amended, and 36 U.S.C. 902, as amended, governing the display and use of the flag; 21
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(b) Federal law, state law, or any local ordinance or resolution; 24
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(c) A proclamation of the president of the United States or the governor. 26
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(2) The display, on the tenant's rental property, 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 who is 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. 28
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(B) A restriction or a construction of a restriction 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. 35
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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 39
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prohibit ~~the~~ any of the following: 43

(1) The placement on any property of a flagpole that is to 44
be used for the purpose of displaying, ~~or shall prohibit or be~~ 45
~~construed to prohibit~~ the flag of the United States or the 46
national league of families POW/MIA flag; 47

(2) The display on any property of, ~~the flag of the United~~ 48
~~States or the national league of families POW/MIA flag~~ if the 49
flag is displayed in accordance with any of the following: 50

~~(1)(a)~~ The patriotic customs set forth in 4 U.S.C.A. 51
U.S.C. 5-105 to 10, as amended, and 36 U.S.C. 902, as amended, 52
governing the display and use of the flag ~~of the United States;~~ 53

~~(2)(b)~~ The consent of the property's owner or of any 54
person having lawful control of the property; 55

~~(3)(c)~~ The recommended flagpole standards set forth in 56
"Our Flag," published pursuant to S.C.R. 61 of the 105th 57
Congress, 1st Session (1998); 58

~~(4)(d)~~ Any federal law, proclamation of the president of 59
the United States or the governor, section of the Revised Code, 60
or local ordinance or resolution. 61

(3) The display of a service flag approved by the United 62
States secretary of defense for display in a window of the 63
residence of a member of the immediate family of an individual 64
who is serving in the armed forces of the United States. A 65
service flag includes a blue star banner, a gold star banner, 66
and any other flag the secretary of defense designates as a 67
service flag. 68

(B) A covenant, condition, restriction, rule, regulation, 69
bylaw, governing document, or agreement or a construction of any 70

of these items that violates division (A) of this section is 71
against public policy and unenforceable in any court of this 72
state to the extent it violates that division. 73

Sec. 5311.191. (A) No declaration, bylaw, rule, 74
regulation, or agreement of a condominium property or 75
construction of any of these items by the board of managers of 76
its unit owners association shall prohibit ~~the either of the~~ 77
following: 78

(1) The placement of a flagpole that is to be used for the 79
purpose of displaying, or ~~shall prohibit~~ the display of, the 80
flag of the United States or the national league of families 81
POW/MIA flag on or within the limited common areas and 82
facilities of a unit owner or on the immediately adjacent 83
exterior of the building in which the unit of a unit owner is 84
located, if the flag is displayed in accordance with any of the 85
following: 86

~~(1)(a)~~ The patriotic customs set forth in 4 U.S.C.A. 87
U.S.C. 5-105 to 10, as amended, and 36 U.S.C. 902, as amended, 88
governing the display and use of the flag ~~of the United States;~~ 89

~~(2)(b)~~ The recommended flagpole standards set forth in 90
"Our Flag," published pursuant to S.C.R. 61 of the 105th 91
Congress, 1st Session (1998); 92

~~(3)(c)~~ Any federal law, proclamation of the president of 93
the United States or the governor, section of the Revised Code, 94
or local ordinance or resolution. 95

(2) The display of a service flag approved by the United 96
States secretary of defense for display in a window of the 97
residence of a member of the immediate family of an individual 98
who is serving in the armed forces of the United States. A 99

service flag includes a blue star banner, a gold star banner, 100
and any other flag the secretary of defense designates as a 101
service flag. 102

(B) A declaration, bylaw, rule, regulation, or agreement 103
or the construction of any of these items that violates division 104
(A) of this section is against public policy and unenforceable 105
in any court of this state to the extent it violates that 106
division. 107

Sec. 5321.131. (A) No restriction set forth in a rental 108
agreement shall prohibit or be construed to prohibit either of 109
the following: 110

(1) The display, on the tenant's residential premises, of 111
the flag of the United States or the national league of families 112
POW/MIA flag if the flag is displayed in accordance with any of 113
the following: 114

(a) The patriotic customs set forth in 4 U.S.C. 5 to 10, 115
as amended, and 36 U.S.C. 902, as amended, governing the display 116
and use of the flag; 117

(b) Federal law, state law, or any local ordinance or 118
resolution; 119

(c) A proclamation of the president of the United States 120
or the governor. 121

(2) The display, on the tenant's residential premises, of 122
a service flag approved by the United States secretary of 123
defense for display in a window of the residence of a member of 124
the immediate family of an individual who is serving in the 125
armed forces of the United States. A service flag includes a 126
blue star banner, a gold star banner, and any other flag the 127
secretary of defense designates as a service flag. 128

(B) Prior to the installation of a flag pole on the 129
grounds of a tenant's residential premises, and prior to the 130
installation of a bracket to be affixed to the tenant's 131
residential premises, a tenant shall notify the landlord of the 132
planned location of the pole or bracket, and the proposed manner 133
and materials of installation. 134

Installation of a pole or bracket by a landlord or tenant, 135
and display of a flag under division (A) of this section, shall 136
comply with all applicable laws and safety standards and any 137
patriotic customs contemplated by that division. 138

Nothing in this division exempts a tenant from a provision 139
in a lease agreement that requires the tenant, at the 140
termination of a lease, to return the premises in the same 141
condition as they were in when the tenant took possession. 142

Prior to commencing any excavation for the installation of 143
a flagpole on the grounds of the tenant's residential premises, 144
the landlord or tenant shall notify a protection service, and 145
comply with Chapter 3781. of the Revised Code, to determine the 146
location of any underground utilities in the area of the planned 147
excavation. 148

(C) A restriction or a construction of a restriction that 149
violates division (A) of this section is against public policy 150
and unenforceable in any court of this state to the extent it 151
violates that division. 152

Section 2. That existing sections 5301.072 and 5311.191 of 153
the Revised Code are hereby repealed. 154