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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

Senator LaRose

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 home park 3
operators, condominium associations, 4
neighborhood associations, and landlords from 5
restricting the display of the Ohio flag, the 6
POW/MIA flag, blue star banners, gold star 7
banners, and other service flags, and to 8
prohibit manufactured home park operators and 9
landlords from restricting the display of the 10
United States flag and the POW/MIA 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 81
rental agreement against, or otherwise prohibit on a tenant's or 82
owner's rental property, any of the following: 83

(a) The display of the flag of the United States or the 84
national league of families POW/MIA flag if the flag is 85
displayed in accordance with any of the following: 86

(i) The patriotic customs set forth in 4 U.S.C. 5-10, and 87
36 U.S.C. 902, governing the display and use of the flag; 88

(ii) Federal law, state law, or any local ordinance or 89
resolution; 90

(iii) A proclamation of the president of the United States 91
or the governor of the state. 92

(b) The display of the state flag as defined in section 93
5.01 of the Revised Code if the flag is displayed in accordance 94
with state law, any local ordinance or resolution, or 95
proclamation by the governor of the state; 96

(c) The display of a service flag approved by the United 97
States secretary of defense for display in a window of the 98
residence of a member of the immediate family of an individual 99
serving in the armed forces of the United States. A service flag 100
includes a blue star banner, a gold star banner, and any other 101

flag the secretary of defense designates as a service flag. 102

(3) A tenant who requests to display the flag of the 103
United States or the national league of families POW/MIA flag at 104
the rental property as provided in division (C)(2) of this 105
section through the use of a flag pole shall contact the park 106
operator with reasonable notice before installation of the flag 107
pole to discuss the following: 108

(a) Placement in compliance with any local zoning 109
restrictions and the required underground utility service 110
requests (OUPS); 111

(b) Cost of the materials and installation; 112

(c) Installation in a workerlike manner if installed at 113
the tenant's request and expense; 114

(d) Any lighting required to comply with division (C)(2) 115
(a)(i) of this section; 116

(e) The appropriate size of the flag and flag pole, which 117
shall be consistent with the size and character of the building. 118

(4) A tenant who requests to display the flag of the 119
United States or the national league of families POW/MIA flag at 120
the rental property as provided in division (C)(2) of this 121
section through the use of a bracket to be permanently affixed 122
to the manufactured home, shall contact the park operator with 123
reasonable notice before installation of the bracket to discuss 124
the following: 125

(a) Placement in compliance with any local zoning 126
restrictions; 127

(b) Cost of the materials and installation; 128

(c) Preferred location of the bracket with installation to 129
be performed in a workerlike manner if installed at the tenant's 130
request and expense; 131

(d) Any lighting required to comply with division (C) (2) 132
(a) (i) of this section; 133

(e) The appropriate size of the flag and flag pole, which 134
shall be consistent with the size and character of the 135
manufactured home. 136

(5) A tenant who owns the manufactured home but leases the 137
lot and who requests to display the flag of the United States or 138
the national league of families POW/MIA flag at the rental 139
property as provided in division (C) (2) of this section through 140
the use of a bracket to be permanently affixed to the 141
manufactured home, shall contact the park operator with 142
reasonable notice before installation of the bracket to discuss 143
the following: 144

(a) Placement in compliance with any local zoning 145
restrictions; 146

(b) Preferred location of the bracket to insure that there 147
will be no encroachment of the flag or bracket onto common areas 148
of the park; 149

(c) Any lighting required to comply with division (C) (2) 150
(a) (i) of this section; 151

(d) The appropriate size of the flag and flag pole, which 152
shall be consistent with the size and character of the 153
manufactured home and surrounding manufactured home park. 154

(6) A park operator who does not receive the notifications 155
required under divisions (C) (3) and (4) of this section is not 156

liable for any damages, fines, or costs associated with any 157
issues arising from the placement of the flag pole or the 158
bracket by the tenant. 159

(7) Any display of the flag of the United States or the 160
national league of families POW/MIA flag, shall use a flag or 161
flag pole of an appropriate size, consistent with the size and 162
character of the manufactured homes within the manufactured home 163
park. 164

(8) Any violation of this division is against public 165
policy and unenforceable. Any provision of a rental agreement 166
that violates this division is an unconscionable term under 167
section 4781.48 of the Revised Code. 168

(9) Nothing in this division exempts a tenant from a 169
provision in a lease agreement that requires a tenant, at the 170
termination of a lease, to return the premises in the same 171
condition as they were in when the tenant took possession. 172

(D) No park operator shall require an owner to purchase 173
from the park operator any personal property. The park operator 174
may determine by rule the style or quality of skirting, 175
equipment for tying down homes, manufactured or mobile home 176
accessories, or other equipment to be purchased by an owner from 177
a vendor of the owner's choosing, provided that the equipment is 178
readily available to the owner. Any such equipment shall be 179
installed in accordance with the manufactured home park rules. 180

(E) No park operator shall charge any owner who chooses to 181
install an electric or gas appliance in a home an additional fee 182
solely on the basis of the installation, unless the installation 183
is performed by the park operator at the request of the owner, 184
nor shall the park operator restrict the installation, service, 185

or maintenance of the appliance, restrict the ingress or egress 186
of repairpersons to the manufactured home park for the purpose 187
of installation, service, or maintenance of the appliance, nor 188
restrict the making of any interior improvement in a home, if 189
the installation or improvement is in compliance with applicable 190
building codes and other provisions of law and if adequate 191
utility services are available for the installation or 192
improvement. 193

(F) No park operator shall require a tenant to lease or an 194
owner to purchase a manufactured or mobile home from the park 195
operator or any specific person as a condition of or 196
prerequisite to entering into a rental agreement. 197

(G) No park operator shall require an owner to use the 198
services of the park operator or any other specific person for 199
installation of the manufactured or mobile home on the 200
residential premises or for the performance of any service. 201

(H) No park operator shall: 202

(1) Deny any owner the right to sell the owner's 203
manufactured home within the manufactured home park if the owner 204
gives the park operator ten days' notice of the intention to 205
sell the home; 206

(2) Require the owner to remove the home from the 207
manufactured home park solely on the basis of the sale of the 208
home; 209

(3) Unreasonably refuse to enter into a rental agreement 210
with a purchaser of a home located within the operator's 211
manufactured home park; 212

(4) Charge any tenant or owner any fee, charge, or 213
assessment, including a rental fee, that is not set forth in the 214

rental agreement or, if the rental agreement is oral, is not set 215
forth in a written disclosure given to the tenant or owner prior 216
to the tenant or owner entering into a rental agreement; 217

(5) Charge any owner any fee, charge, or assessment 218
because of the transfer of ownership of a home or because a home 219
is moved out of or into the manufactured home park, except a 220
charge for the actual costs and expenses that are incurred by 221
the park operator in moving the home out of or into the 222
manufactured home park, or in installing the home in the 223
manufactured home park and that have not been reimbursed by 224
another tenant or owner. 225

(I) If the park operator violates any provision of 226
divisions (A) to (H) of this section, the tenant or owner may 227
recover actual damages resulting from the violation, and, if the 228
tenant or owner obtains a judgment, reasonable attorneys' fees, 229
or terminate the rental agreement. 230

(J) No rental agreement shall require a tenant or owner to 231
sell, lease, or sublet the tenant's or owner's interest in the 232
rental agreement or the manufactured or mobile home that is or 233
will be located on the lot that is the subject of the rental 234
agreement to any specific person or through any specific person 235
as the person's agent. 236

(K) No park operator shall enter into a rental agreement 237
with the owner of a manufactured or mobile home for the use of 238
residential premises, if the rental agreement requires the owner 239
of the home, as a condition to the owner's renting, occupying, 240
or remaining on the residential premises, to pay the park 241
operator or any other person specified in the rental agreement a 242
fee or any sum of money based on the sale of the home, unless 243
the owner of the home uses the park operator or other person as 244

the owner's agent in the sale of the home. 245

(L) A park operator and a tenant or owner may include in a 246
rental agreement any terms and conditions, including any term 247
relating to rent, the duration of an agreement, and any other 248
provisions governing the rights and obligations of the parties 249
that are not inconsistent with or prohibited by sections ~~3733.09-~~ 250
4781.36 to 3733.20-4781.52 of the Revised Code or any other rule 251
of law. 252

(M) Notwithstanding any other provision of the Revised 253
Code, the owner of a manufactured or mobile home may utilize the 254
services of a manufactured housing dealer or broker licensed 255
under Chapter 4781. of the Revised Code or a person properly 256
licensed under Chapter 4735. of the Revised Code to sell or 257
lease the home. 258

Sec. 5301.072. (A) No covenant, condition, or restriction 259
set forth in a deed, and no rule, regulation, bylaw, or other 260
governing document or agreement of a homeowners, neighborhood, 261
civic, or other association, shall prohibit or be construed to 262
prohibit ~~the~~ any of the following: 263

(1) The placement on any property of a flagpole that is to 264
be used for the purpose of displaying, ~~or shall prohibit or be~~ 265
~~construed to prohibit~~ the flag of the United States, the flag of 266
the state as defined in section 5.01 of the Revised Code, or the 267
national league of families POW/MIA flag provided the flag and 268
flag pole shall be of an appropriate size, consistent with the 269
size and character of the buildings that are subject to the 270
requirements or agreements of a homeowner, neighborhood, civic, 271
or other association; 272

(2) The display on any property of ~~7~~ the flag of the United 273

States <u>or the national league of families POW/MIA flag</u> if the	274
flag is displayed in accordance with any of the following:	275
(1) <u>(a) The patriotic customs set forth in 4-U.S.C.A. 5-</u>	276
10, as amended <u>U.S.C. 5-10, and 36 U.S.C. 902 governing the</u>	277
<u>display and use of the flag of the United States;</u>	278
(2) <u>(b) The consent of the property's owner or of any</u>	279
<u>person having lawful control of the property;</u>	280
(3) <u>(c) The recommended flagpole standards set forth in</u>	281
<u>"Our Flag," published pursuant to S.C.R. 61 of the 105th</u>	282
<u>Congress, 1st Session (1998);</u>	283
(4) <u>(d) Any federal law, proclamation of the president of</u>	284
<u>the United States or the governor, section of the Revised Code,</u>	285
<u>or local ordinance or resolution.</u>	286
<u>(3) The display on any property of the state flag as</u>	287
<u>defined in section 5.01 of the Revised Code if the flag is</u>	288
<u>displayed in accordance with any of the following:</u>	289
<u>(a) The consent of the property's owner or of any person</u>	290
<u>having lawful control of the property;</u>	291
<u>(b) Any state law, local ordinance or resolution, or</u>	292
<u>proclamation by the governor of the state.</u>	293
<u>(4) The display of a service flag approved by the United</u>	294
<u>States secretary of defense for display in a window of the</u>	295
<u>residence of a member of the immediate family of an individual</u>	296
<u>serving in the armed forces of the United States. A service flag</u>	297
<u>includes a blue star banner, a gold star banner, and any other</u>	298
<u>flag the secretary of defense designates as a service flag.</u>	299
<u>(B) A covenant, condition, restriction, rule, regulation,</u>	300
<u>bylaw, governing document, or agreement or a construction of any</u>	301

of these items that violates division (A) of this section is 302
against public policy and unenforceable in any court of this 303
state to the extent it violates that division. 304

Sec. 5311.191. (A) No declaration, bylaw, rule, 305
regulation, or agreement of a condominium property or 306
construction of any of these items by the board of managers of 307
its unit owners association shall prohibit ~~the any of the~~ 308
following: 309

(1) The placement of a flagpole that is to be used for the 310
purpose of displaying, or shall prohibit the display of, the 311
flag of the United States or the national league of families 312
POW/MIA flag on or within the limited common areas and 313
facilities of a unit owner or on the immediately adjacent 314
exterior of the building in which the unit of a unit owner is 315
located, if the flag is displayed in accordance with any of the 316
following: 317

~~(1)(a) The patriotic customs set forth in 4 U.S.C.A. 5-~~ 318
~~10, as amended U.S.C. 5-10, and 36 U.S.C. 902, governing the~~ 319
~~display and use of the flag of the United States;~~ 320

~~(2)(b) The recommended flagpole standards set forth in~~ 321
~~"Our Flag," published pursuant to S.C.R. 61 of the 105th~~ 322
~~Congress, 1st Session (1998);~~ 323

~~(3)(c) Any federal law, proclamation of the president of~~ 324
~~the United States or the governor, section of the Revised Code,~~ 325
~~or local ordinance or resolution.~~ 326

(2) The placement of a flagpole that is to be used for the 327
purpose of displaying, or the display of the flag of the state 328
as defined in section 5.01 of the Revised Code on or within the 329
limited common areas and facilities of a unit owner or on the 330

immediately adjacent exterior of the building in which the unit 331
of a unit owner is located, if the flag is displayed in 332
accordance with any state law, local ordinance or resolution, or 333
proclamation by the governor of the state; 334

(3) The display of a service flag approved by the United 335
States secretary of defense for display in a window of the 336
residence of a member of the immediate family of an individual 337
serving in the armed forces of the United States. A service flag 338
includes a blue star banner, a gold star banner, and any other 339
flag the secretary of defense designates as a service flag. 340

(B) Any display of the flag of the United States or the 341
national league of families POW/MIA flag, shall use a flag or 342
flag pole of an appropriate size, consistent with the size and 343
character of the condominium buildings and common areas. 344

(C) A declaration, bylaw, rule, regulation, or agreement 345
or the construction of any of these items that violates division 346
(A) of this section is against public policy and unenforceable 347
in any court of this state to the extent it violates that 348
division. 349

Sec. 5321.131. (A) No landlord shall include any 350
restriction in a rental agreement against, or otherwise prohibit 351
on a tenant's rental property, any of the following: 352

(1) The display of the flag of the United States or the 353
national league of families POW/MIA flag if the flag is 354
displayed in accordance with any of the following: 355

(a) The patriotic customs set forth in 4 U.S.C. 5-10, and 356
36 U.S.C. 902, governing the display and use of the flag; 357

(b) Federal law, state law, or any local ordinance or 358
resolution; 359

(c) A proclamation of the president of the United States 360
or the governor of the state. 361

(2) The display of the state flag as defined in section 362
5.01 of the Revised Code if the flag is displayed in accordance 363
with state law, any local ordinance or resolution, or 364
proclamation by the governor of the state; 365

(3) The display of a service flag approved by the United 366
States secretary of defense for display in a window of the 367
residence of a member of the immediate family of an individual 368
serving in the armed forces of the United States. A service flag 369
includes a blue star banner, a gold star banner, and any other 370
flag the secretary of defense designates as a service flag. 371

(B) (1) A tenant who requests to display the flag of the 372
United States or the national league of families POW/MIA flag at 373
the rental property as provided in division (A) (1) of this 374
section through the use of a flag pole shall contact the 375
landlord with reasonable notice before installation of the flag 376
pole to discuss the following: 377

(a) Placement in compliance with any local zoning 378
restrictions and the required underground utility service 379
requests (OUPS); 380

(b) Cost of the materials and installation; 381

(c) Installation in a workerlike manner if installed at 382
the tenant's request and expense; 383

(d) Any lighting required to comply with division (A) (1) 384
(a) of this section; 385

(e) The appropriate size of the flag and flag pole, which 386
shall be consistent with the size and character of the building. 387

(2) A tenant who requests to display the flag of the United States or the national league of families POW/MIA flag at the rental property as provided in division (A)(1) 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 416
possession. 417

Section 2. That existing sections 4781.40, 5301.072, and 418
5311.191 of the Revised Code are hereby repealed. 419