

As Passed by the House

135th General Assembly

Regular Session

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Am. H. B. No. 100

Representative Miller, K.

Cosponsors: Representatives Schmidt, Klopfenstein, Troy, Plummer, Young, T., Robb Blasdel, Hall, Jones, Carruthers, Abrams, Creech, Brennan, Click, Cross, Cutrona, Demetriou, Dobos, Edwards, Ghanbari, John, Johnson, Lampton, Lear, Lorenz, Mathews, Miller, M., Oelslager, Patton, Peterson, Richardson, Roemer, Santucci, Seitz, Stein, Thomas, C., White, Williams, Willis

A BILL

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 16
manufactured home park or, if the home is in the manufactured 17
home park, prior to the expiration of the owner's existing 18
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 50
fees, charges, assessments, including rental fees, and rules 51
prior to a tenant or owner executing a rental agreement and 52
assuming occupancy in the manufactured home park. No fees, 53
charges, assessments, or rental fees so disclosed may be 54
increased nor rules changed by a park operator without 55
specifying the date of implementation of the changed fees, 56
charges, assessments, rental fees, or rules, which date shall be 57
not less than thirty days after written notice of the change and 58
its effective date to all tenants or owners in the manufactured 59
home park, and no fee, charge, assessment, or rental fee shall 60
be increased during the term of any tenant's or owner's rental 61
agreement. Failure on the part of the park operator to fully 62
disclose all fees, charges, or assessments shall prevent the 63
park operator from collecting the undisclosed fees, charges, or 64
assessments. If a tenant or owner refuses to pay any undisclosed 65
fees, charges, or assessments, the refusal shall not be used by 66
the park operator as a cause for eviction in any court. 67

(C) (1) A park operator shall promulgate rules governing 68
the rental or occupancy of a lot in the manufactured home park. 69
The rules shall not be unreasonable, arbitrary, or capricious. A 70
copy of the rules and any amendments to them shall be delivered 71
by the park operator to the tenant or owner prior to signing the 72
rental agreement. A copy of the rules and any amendments to them 73
shall be posted in a conspicuous place upon the manufactured 74
home park grounds. 75

(2) No park operator shall include any restriction in a 76

rental agreement against, or otherwise prohibit on a tenant's or 77
owner's rental property, any of the following: 78

(a) The display of the flag of the United States or the 79
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

(a) Placement in compliance with any local zoning 108
restrictions and the required underground utility service 109
requests (OUPS); 110

(b) Cost of the materials and installation; 111

(c) Installation in a workerlike manner if installed at 112
the tenant's request and expense; 113

(d) Any lighting required to comply with division (C) (2) 114
(a) (i) of this section; 115

(e) The appropriate size of the flag and flag pole, which 116
shall be consistent with the size and character of the building. 117

(4) A tenant who requests to display the flag of the 118
United States ~~or~~, the national league of families POW/MIA flag, 119
or the thin blue line flag at the rental property as provided in 120
division (C) (2) of this section through the use of a bracket to 121
be permanently affixed to the manufactured home, shall contact 122
the park operator with reasonable notice before installation of 123
the bracket to discuss the following: 124

(a) Placement in compliance with any local zoning 125
restrictions; 126

(b) Cost of the materials and installation; 127

(c) Preferred location of the bracket with installation to 128
be performed in a workerlike manner if installed at the tenant's 129
request and expense; 130

(d) Any lighting required to comply with division (C) (2) 131

(a) (i) of this section;	132
(e) The appropriate size of the flag and flag pole, which shall be consistent with the size and character of the manufactured home.	133 134 135
(5) A tenant who owns the manufactured home but leases the lot and who requests to display the flag of the United States or , <u>the national league of families POW/MIA flag, 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:	136 137 138 139 140 141 142 143
(a) Placement in compliance with any local zoning restrictions;	144 145
(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;	146 147 148
(c) Any lighting required to comply with division (C) (2) (a) (i) of this section;	149 150
(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.	151 152 153
(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.	154 155 156 157 158
(7) Any display of the flag of the United States or , <u>the</u>	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
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 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 304
residence of a member of the immediate family of an individual 305
serving in the armed forces of the United States. A service flag 306
includes a blue star banner, a gold star banner, and any other 307
flag the secretary of defense designates as a service flag._ 308

(5) The display of a thin blue line flag or emblem on any 309
property on a flag pole, through the use of a bracket, or in a 310
window if the flag is displayed in accordance with any of the 311
following: 312

(a) The consent of the property's owner or of any person 313
having lawful control of the property; 314

(b) Any state law, local ordinance or resolution, or 315
proclamation by the governor of the state. 316

(B) A covenant, condition, restriction, rule, regulation, 317
bylaw, governing document, or agreement or a construction of any 318
of these items that violates division (A) of this section is 319
against public policy and unenforceable in any court of this 320
state to the extent it violates that division._ 321

(C) As used in this section, "thin blue line flag" and 322
"thin blue line emblem" have the same meanings as in section 323
4781.40 of the Revised Code. 324

Sec. 5311.191. (A) No declaration, bylaw, rule, 325
regulation, or agreement of a condominium property or 326
construction of any of these items by the board of managers of 327
its unit owners association shall prohibit any of the following: 328

(1) The placement of a flagpole that is to be used for the 329
purpose of displaying, or the display of the flag of the United 330
States or the national league of families POW/MIA flag on or 331
within the limited common areas and facilities of a unit owner 332

or on the immediately adjacent exterior of the building in which 333
the unit of a unit owner is located, if the flag is displayed in 334
accordance with any of the following: 335

(a) The patriotic customs set forth in 4 U.S.C. 5-10, and 336
36 U.S.C. 902, governing the display and use of the flag; 337

(b) The recommended flagpole standards set forth in "Our 338
Flag," published pursuant to S.C.R. 61 of the 105th Congress, 339
1st Session (1998); 340

(c) Any federal law, proclamation of the president of the 341
United States or the governor, section of the Revised Code, or 342
local ordinance or resolution. 343

(2) The placement of a flagpole that is to be used for the 344
purpose of displaying, or the display of the flag of the state 345
as defined in section 5.01 of the Revised Code on or within the 346
limited common areas and facilities of a unit owner or on the 347
immediately adjacent exterior of the building in which the unit 348
of a unit owner is located, if the flag is displayed in 349
accordance with any state law, local ordinance or resolution, or 350
proclamation by the governor of the state; 351

(3) The display of a service flag approved by the United 352
States secretary of defense for display in a window of the 353
residence of a member of the immediate family of an individual 354
serving in the armed forces of the United States. A service flag 355
includes a blue star banner, a gold star banner, and any other 356
flag the secretary of defense designates as a service flag._ 357

(4) The display of a thin blue line flag or emblem on a 358
flag pole, through the use of a bracket, or in a window on or 359
within the limited common areas and facilities of a unit owner, 360
or on the immediately adjacent exterior of the building in which 361

the unit of a unit owner is located, if the flag or emblem is 362
displayed in accordance with any state law, local ordinance or 363
resolution, or a proclamation by the governor of the state. 364

(B) Any display of the flag of the United States ~~or,~~ the 365
national league of families POW/MIA flag, or the thin blue line 366
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

Section 3. This act shall be known as the Chief Steven 457
DiSario Act. 458