



Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 84*

131st General Assembly

(As Reported by S. State and Local Gov't)

Sens. Coley, Beagle, Hottinger, Uecker

BILL SUMMARY

- Prohibits manufactured home park operators and landlords from including a provision in a rental agreement or otherwise prohibiting the display of the United States flag, the Ohio flag, or service flags approved by the United States Secretary of Defense.
- Prohibits neighborhood associations and condominium associations from including a provision in a governing document that prohibits the display of the Ohio flag or a service flag, subject to specified conditions, and prohibits the trustees of the association from construing a provision in a governing document for that purpose.
- Provides that such a prohibited provision or construction is void as against public policy.
- Establishes criteria to be discussed with a landlord or manufactured home operator when a tenant seeks to display a United States flag on a flag pole or by an affixed bracket.

CONTENT AND OPERATION

Display of the United States or Ohio flag, and service flags

The bill prohibits a manufactured home park operator or landlord from including any restriction in a rental agreement that prohibits the display of the United

* This analysis was prepared before the report of the Senate State and Local Government Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

States flag, the Ohio flag, or approved service flags on a tenant's or owner's rental property when the flag is displayed in accordance with specified requirements.¹ In the case of the United States flag, the display cannot be prohibited if it is displayed in accordance with any of the following:

(a) The patriotic customs set forth in federal law governing the display and use of the United States flag;

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

(c) A presidential or gubernatorial proclamation.²

Federal law generally sets forth: appropriate times of day and special occasions for flag display; procedures for hoisting, passing, and lowering the flag; proper locations for flag display; correct position and manner of flag display; and accepted behavior to show respect for the flag, including destruction of a flag no longer considered in fit condition.³

In the case of the Ohio flag, its display cannot be prohibited if its display is in accordance with state law, any local ordinance or resolution, or proclamation of the Governor.⁴ For condominium property, the placement of a flagpole that is to be used for displaying the state 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 cannot be prohibited if displayed in accordance with state law, any local ordinance or resolution, or proclamation of the Governor.⁵ For property subject to regulation by a homeowner, neighborhood, civic, or other association, the consent of the property's owner or of any person having lawful control of the property may additionally be required or may, according to bill's terms, provide for the manner of displaying the flag.⁶

¹ Current law already prohibits condominium associations and homeowners, neighborhood, civic, and other associations from prohibiting the display of the United States flag. R.C. 5301.072 and 5311.191. These laws are amended by the bill to include similar prohibitions for the Ohio flag and service flags as explained above.

² R.C. 4781.40(C)(2)(a) and 5321.131(A)(1).

³ See 4 U.S.C. sections 5-10.

⁴ R.C. 4781.40(C)(2)(b) and 5321.131(A)(2).

⁵ R.C. 5311.191(A)(2).

⁶ R.C. 5301.072(A)(3). The bill states that the display of a state flag cannot be prohibited if it is displayed in accordance with the consent of the property owner (it appears the consent, alone, may be sufficient



In the case of a service flag approved by the Secretary of Defense, its display cannot be prohibited 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.⁷

Landlord requirements for display of U.S. flag

The bill requires a tenant⁸ who wishes to install a flag pole for the display of a flag to discuss all of the following with the landlord⁹ before installing a flag pole: placement in compliance with zoning restrictions and required underground utility service requests, cost of the materials and installation, installation in a "workerlike" manner,¹⁰ any lighting required to comply with the patriotic customs set forth in federal law governing the display and use of the flag, and the appropriate size of the flag or flag pole, which must be consistent with the size and character of the building. The tenant must give the landlord reasonable notice to discuss these matters before installing a flag pole.

For tenants who wish to display a flag through the use of a bracket affixed to the property, the tenant is required to contact the landlord with reasonable notice before installing the bracket to discuss generally the same things as noted above for the flag pole display. In the case of a manufactured home park tenant who owns the home and leases *only* a lot, the criteria differ; they must contact the park operator with reasonable notice to discuss placement in compliance with any local zoning restrictions, preferred location of the bracket to insure that there will be no encroachment of the flag or bracket onto common areas of the park, any lighting required to comply with the patriotic customs set forth in federal law, and the appropriate size of the flag and flag pole, which must be consistent with the size and character of the manufactured home and surrounding manufactured home park. Tenants who lease a home *and* a lot use the same criteria as other regular tenants leasing rental property.

because the bill states that "any of the following" may provide for the manner of display that will preclude the prohibition).

⁷ R.C. 4781.40(C)(2)(c), 5301.072(A)(3), 5311.191(A)(3), and 5321.131(A)(3).

⁸ This includes tenants who rent lots in a manufactured home park and who may also rent a manufactured home, as well as tenants of other rental properties. R.C. 4781.40(C) and 5321.131(B).

⁹ Or manufactured home park operator.

¹⁰ This is the gender neutral form for what is commonly understood to be "workmanlike" manner.



If landlords or manufactured home park operators are not given reasonable notice before the requisite discussion, they will not be held 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.¹¹

Nothing in the bill's provisions concerning the discussions that must occur before installing a flag pole or bracket 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.¹²

Appropriate size in relation to size and character of the building

Each provision in the bill includes a requirement for any display of the flag of the United States to use a flag or flag pole of an appropriate size, consistent with the size and character of the relevant type of building.¹³

HISTORY

ACTION	DATE
Introduced	02-23-15
Reported, S. State & Local Gov't	---

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¹¹ R.C. 4781.40(C)(6) and 5321.131(C).

¹² R.C. 4781.40(C)(9) and 5321.131(E).

¹³ R.C. 4781.40(C)(7), 5301.072(A)(1), 5311.191(B), and 5321.131(B)(1)(e), and (B)(2)(e).

