



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

Wendy H. Gridley

Sub. H.B. 18

131st General Assembly
(As Passed by the General Assembly)

Reps. Gonzales and Ginter, Amstutz, Becker, Blessing, Brenner, Buchy, Dever, Grossman, Hayes, T. Johnson, Kraus, Leland, Phillips, Rezabek, Roegner, Terhar, Vitale, Young, Perales, Anielski, Bishoff, Landis, M. O'Brien, 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, G. Johnson, Koehler, Kuhns, Kunze, Lepore-Hagan, McClain, McColley, S. O'Brien, Patterson, Ramos, Reece, Reineke, Rogers, Romanchuk, Ruhl, Ryan, Schaffer, Scherer, Schuring, Sears, Sheehy, Slaby, Slesnick, K. Smith, R. Smith, Sprague, Sweeney, Thompson, Rosenberger

Sens. LaRose, Balderson, Beagle, Burke, Cafaro, Coley, Eklund, Faber, Hite, Hottinger, Hughes, Jones, Lehner, Manning, Oelslager, Patton, Peterson, Uecker

Effective date: March 21, 2017

ACT SUMMARY

- Prohibits manufactured home park operators and landlords from including a provision in a rental agreement or otherwise prohibiting the display of the U.S. flag, the Ohio flag, the POW/MIA flag, or service flags approved by the U.S. 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.

* This version updates the effective date.

- Establishes criteria to be discussed with a landlord or manufactured home operator when a tenant seeks to display a U.S. flag on a flag pole or by an affixed bracket.

CONTENT AND OPERATION

Display of U.S., Ohio, POW/MIA, and service flags

When the flag is displayed according to specified requirements, the act prohibits: (1) a manufactured home park operator or landlord from including any restriction in a rental agreement, and (2) a neighborhood or condominium association from including a provision in a governing document that prohibit the display of the U.S. flag, the Ohio flag, the national league of families POW/MIA flag, or approved service flags on a tenant's rental property or owner's property.¹ Any such prohibited provision or construction is void as against public policy.²

U.S. or POW/MIA flag

For the U.S. flag or the POW/MIA flag, the display cannot be prohibited if it is displayed in accordance with any of the following:

- (1) The patriotic customs in federal law governing the display and use of the U.S. flag and POW/MIA flag;
- (2) Federal law, Ohio law, or any local ordinance or resolution;
- (3) A presidential or gubernatorial proclamation.³

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.⁴

¹ Ongoing law prohibits condominium associations and homeowners, neighborhood, civic, and other associations from prohibiting the display of the U.S. flag. R.C. 5301.072 and 5311.191. The act amends these laws to include similar prohibitions related to those associations for the Ohio flag, the POW/MIA flag, and service flags.

² R.C. 4781.40(C)(8), 5301.072(B), 5311.191(C), and 5321.131(D).

³ R.C. 4781.40(C)(2)(a) and 5321.131(A)(1).

⁴ See 4 U.S.C. 5 to 10 and 36 U.S.C. 902.



Ohio flag

For the Ohio flag, its display cannot be prohibited in a rental agreement if it is in accordance with Ohio law, any local ordinance or resolution, or gubernatorial proclamation.⁵ Likewise, the act specifies that for condominium property, the placement of a flagpole for displaying the Ohio 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 an owner's unit is located, cannot be prohibited if displayed in accordance with Ohio law, any local ordinance or resolution, or gubernatorial proclamation.⁶ Additionally, 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 allow and provide for the manner of displaying the flag.⁷

Service flag

For a service flag approved by the U.S. 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 U.S. armed forces. 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.⁸

Landlord notice for display of U.S. and POW/MIA flag

The act requires a tenant⁹ who wishes to install a flag pole for the display of a flag to discuss all of the following with the landlord or manufactured home park operator before doing so: placement in compliance with zoning restrictions and required underground utility service requests, cost of the materials and installation, installation in a workerlike manner, any lighting required to comply with federal law's patriotic customs related to flag display and use, 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.

⁵ R.C. 4781.40(C)(2)(b) and 5321.131(A)(2).

⁶ R.C. 5311.191(A)(2).

⁷ R.C. 5301.072(A)(3).

⁸ R.C. 4781.40(C)(2)(c), 5301.072(A)(3), 5311.191(A)(3), and 5321.131(A)(3).

⁹ 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).



For tenants who wish to display a flag through the use of a bracket affixed to the property, the tenant must contact the landlord with reasonable notice before installing the bracket to discuss generally the same things as noted above for a flag pole. For a manufactured home park tenant who owns the home and leases *only* a lot, the criteria differ; that tenant 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 federal law's patriotic customs, 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.

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.¹⁰

Nothing in the act'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.¹¹

Appropriate size

Each provision in the act includes a requirement for any display of the U.S. flag or the POW/MIA flag to use a flag or flag pole of an appropriate size, consistent with the size and character of the relevant type of building.¹²

¹⁰ R.C. 4781.40(C)(6) and 5321.131(C).

¹¹ R.C. 4781.40(C)(9) and 5321.131(E).

¹² R.C. 4781.40(C)(7), 5301.072(A)(1) (also includes state flag), 5311.191(B), and 5321.131(B)(1)(e), and (B)(2)(e).



HISTORY

ACTION	DATE
Introduced	01-28-15
Reported, H. Armed Services, Veterans Affairs, & Public Safety	05-20-15
Passed House (95-0)	06-10-15
Reported, S. State & Local Gov't	11-18-15
Passed Senate (31-0)	12-06-16
House concurred in Senate amendments (93-0)	12-08-16

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