



Ohio Legislative Service Commission

Bill Analysis

Wendy H. Gridley

Sub. H.B. 18

131st General Assembly
(As Passed by the House)

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

BILL SUMMARY

- Prohibits manufactured home park operators and landlords from including a provision in a rental agreement or otherwise prohibiting the display of a service flag, the flag of the United States, or the National League of Families POW/MIA flag.
- Prohibits neighborhood associations and condominium associations from including a provision in a governing document that prohibits the display of a service flag or the National League of Families POW/MIA flag, and prohibits the trustees of the association from construing a provision in a governing document for that purpose.
- Requires a tenant to notify a landlord before the installation of a flag pole on the grounds of a tenant's residential premises, and before the installation of a bracket to be affixed to the tenant's residential premises.
- Declares such a prohibited provision or construction to be void as against public policy.

CONTENT AND OPERATION

Display of service flags

The bill specifies that a tenant with a rental agreement or a tenant residing in a manufactured home park, or a property owner or resident subject to a neighborhood or condominium association, may not be prevented from displaying a flag that has been designated by the United States Secretary of Defense as a service flag.

Specifically, the bill prohibits any of these entities (a landlord, a homeowner's, neighborhood, civic, or other association, or a condominium association) from including a provision in a rental agreement or governing document¹ that prohibits the display 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.²

The bill also prohibits a manufactured home park operator or a landlord from otherwise prohibiting such a display on the tenant's or owner's rental property. And the bill prohibits the trustees of a neighborhood association from construing a provision in a governing document of the association in such a way as to prohibit the display of a service flag as described above.

Furthermore, the bill specifies that if a rental agreement or governing document includes such a restriction, the restriction or a construction of such a restriction is against public policy and unenforceable.³

Display of the United States flag and National League of Families POW/MIA flag

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 States flag or the National League of Families POW/MIA flag on the manufactured home owner's rental property or the tenant's residential premises when the flag is displayed in accordance with any of the following:

¹ In this analysis, "governing document" includes any declaration, bylaw, rule, or regulation.

² R.C. 4781.401(A)(2), 5301.072(A)(3), 5311.191(A)(2), and 5321.131(A)(2).

³ R.C. 4781.401(B) and 5321.131(C); and in continuing law under R.C. 5301.072(B) and 5311.191(B).



(a) The patriotic customs set forth in federal law governing the display and use of the United States flag and the National League of Families POW/MIA flag;

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

(c) A presidential or gubernatorial proclamation.⁴

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.⁵

The bill also prohibits homeowners, neighborhood, civic, and other associations, and condominium associations from including a provision in a governing document that prohibits the display of the National League of Families POW/MIA flag under the same conditions as described above. Continuing law similarly prohibits these associations from prohibiting the display of the United States flag.

Installation of flag pole or bracket on tenant's residential premises

The bill requires a tenant to notify a landlord before installing a flag pole on the grounds of a tenant's residential premises, and before installing a bracket to be affixed to the tenant's residential premises. The tenant must notify the landlord of the planned location of the pole or bracket, and of the proposed manner and materials of installation.⁶

The bill specifies that installation of a pole or bracket by a landlord or tenant and display of a flag must comply with all applicable laws and safety standards and any patriotic customs contemplated by those laws.

The bill expressly states that the bill's provisions do not exempt a tenant from a provision in a lease agreement that requires the tenant, at the termination of a lease, to return the premises in the same condition as they were in when the tenant took possession.

⁴ R.C. 4781.401(A)(1) and 5321.131(A)(1). Current law already prohibits condominium associations and homeowners, neighborhood, civic, or 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 service and POW/MIA flags as explained above.

⁵ See 4 U.S.C. §§ 5-10.

⁶ R.C. 5321.131(B).



The bill also specifies that before commencing any excavation for the installation of a flagpole on the grounds of the tenant's residential premises, the landlord or tenant must notify a protection service, and comply with the Building Standards Law,⁷ which includes the "One-Call Utility Protection Service," to determine the location of any underground utilities in the area of the planned excavation.

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

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⁷ Chapter 3781. of the Revised Code.

