

As Introduced

**130th General Assembly
Regular Session
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S. B. No. 51

Senator Coley

Cosponsors: Senators Hite, Beagle, Jones, Schaffer

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A B I L L

To amend sections 4781.40, 5301.072, and 5311.191 and 1
to enact section 5321.131 of the Revised Code to 2
prohibit manufactured homes park operators, 3
condominium associations, neighborhood 4
associations, and landlords from restricting the 5
display of blue star banners, gold star banners, 6
and other service flags, and to prohibit 7
manufactured homes park operators and landlords 8
from restricting the display of the United States 9
flag. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4781.40, 5301.072, and 5311.191 be 11
amended and section 5321.131 of the Revised Code be enacted to 12
read as follows: 13

Sec. 4781.40. (A)(1) The park operator shall offer each home 14
owner a written rental agreement for a manufactured home park lot 15
for a term of one year or more that contains terms essentially the 16
same as any alternative month-to-month rental agreement offered to 17
current and prospective tenants and owners. The park operator 18
shall offer the minimum one-year rental agreement to the owner 19

prior to installation of the home in the manufactured home park 20
or, if the home is in the manufactured home park, prior to the 21
expiration of the owner's existing rental agreement. 22

(2) The park operator shall deliver the offer to the owner by 23
certified mail, return receipt requested, or in person. If the 24
park operator delivers the offer to the owner in person, the owner 25
shall complete a return showing receipt of the offer. If the owner 26
does not accept the offer, the park operator is discharged from 27
any obligation to make any further such offers. If the owner 28
accepts the offer, the park operator shall, at the expiration of 29
each successive rental agreement, offer the owner another rental 30
agreement, for a term that is mutually agreed upon, and that 31
contains terms essentially the same as the alternative 32
month-to-month agreement. The park operator shall deliver 33
subsequent rental offers by ordinary mail or personal delivery. If 34
the park operator sells the manufactured home park to another 35
manufactured home park operator, the purchaser is bound by the 36
rental agreements entered into by the purchaser's predecessor. 37

(3) If the park operator sells the manufactured home park for 38
a use other than as a manufactured home park, the park operator 39
shall give each tenant and owner a written notification by 40
certified mail, return receipt requested, or by handing it to the 41
tenant or owner in person. If the park operator delivers the 42
notification in person, the recipient shall complete a return 43
showing receipt of the notification. This notification shall 44
contain notice of the sale of the manufactured home park, and 45
notice of the date by which the tenant or owner shall vacate. The 46
date by which the tenant shall vacate shall be at least one 47
hundred twenty days after receipt of the written notification, and 48
the date by which the owner shall vacate shall be at least one 49
hundred eighty days after receipt of the written notification. 50

(B) A park operator shall fully disclose in writing all fees, 51

charges, assessments, including rental fees, and rules prior to a 52
tenant or owner executing a rental agreement and assuming 53
occupancy in the manufactured home park. No fees, charges, 54
assessments, or rental fees so disclosed may be increased nor 55
rules changed by a park operator without specifying the date of 56
implementation of the changed fees, charges, assessments, rental 57
fees, or rules, which date shall be not less than thirty days 58
after written notice of the change and its effective date to all 59
tenants or owners in the manufactured home park, and no fee, 60
charge, assessment, or rental fee shall be increased during the 61
term of any tenant's or owner's rental agreement. Failure on the 62
part of the park operator to fully disclose all fees, charges, or 63
assessments shall prevent the park operator from collecting the 64
undisclosed fees, charges, or assessments. If a tenant or owner 65
refuses to pay any undisclosed fees, charges, or assessments, the 66
refusal shall not be used by the park operator as a cause for 67
eviction in any court. 68

(C)(1) A park operator shall promulgate rules governing the 69
rental or occupancy of a lot in the manufactured home park. The 70
rules shall not be unreasonable, arbitrary, or capricious. A copy 71
of the rules and any amendments to them shall be delivered by the 72
park operator to the tenant or owner prior to signing the rental 73
agreement. A copy of the rules and any amendments to them shall be 74
posted in a conspicuous place upon the manufactured home park 75
grounds. 76

(2) No park operator shall include any restriction in a 77
rental agreement, or otherwise prohibit on a tenant's or owner's 78
rental property, either of the following: 79

(a) The display of the flag of the United States if the flag 80
is displayed in accordance with any of the following: 81

(i) The patriotic customs set forth in 4 U.S.C.A. 5-10, as 82
amended, governing the display and use of the flag of the United 83

<u>States;</u>	84
<u>(ii) Federal law, state law, or any local ordinance or resolution;</u>	85 86
<u>(iii) A proclamation of the president of the United States or the governor of the state.</u>	87 88
<u>(b) 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 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.</u>	89 90 91 92 93 94
<u>(3) Any violation of this division is against public policy and unenforceable. Any provision of a rental agreement that violates this division is an unconscionable term under section 4781.48 of the Revised Code.</u>	95 96 97 98
(D) No park operator shall require an owner to purchase from the park operator any personal property. The park operator may determine by rule the style or quality of skirting, equipment for tying down homes, manufactured or mobile home accessories, or other equipment to be purchased by an owner from a vendor of the owner's choosing, provided that the equipment is readily available to the owner. Any such equipment shall be installed in accordance with the manufactured home park rules.	99 100 101 102 103 104 105 106
(E) No park operator shall charge any owner who chooses to install an electric or gas appliance in a home an additional fee solely on the basis of the installation, unless the installation is performed by the park operator at the request of the owner, nor shall the park operator restrict the installation, service, or maintenance of the appliance, restrict the ingress or egress of repairpersons to the manufactured home park for the purpose of installation, service, or maintenance of the appliance, nor	107 108 109 110 111 112 113 114

restrict the making of any interior improvement in a home, if the 115
installation or improvement is in compliance with applicable 116
building codes and other provisions of law and if adequate utility 117
services are available for the installation or improvement. 118

(F) No park operator shall require a tenant to lease or an 119
owner to purchase a manufactured or mobile home from the park 120
operator or any specific person as a condition of or prerequisite 121
to entering into a rental agreement. 122

(G) No park operator shall require an owner to use the 123
services of the park operator or any other specific person for 124
installation of the manufactured or mobile home on the residential 125
premises or for the performance of any service. 126

(H) No park operator shall: 127

(1) Deny any owner the right to sell the owner's manufactured 128
home within the manufactured home park if the owner gives the park 129
operator ten days' notice of the intention to sell the home; 130

(2) Require the owner to remove the home from the 131
manufactured home park solely on the basis of the sale of the 132
home; 133

(3) Unreasonably refuse to enter into a rental agreement with 134
a purchaser of a home located within the operator's manufactured 135
home park; 136

(4) Charge any tenant or owner any fee, charge, or 137
assessment, including a rental fee, that is not set forth in the 138
rental agreement or, if the rental agreement is oral, is not set 139
forth in a written disclosure given to the tenant or owner prior 140
to the tenant or owner entering into a rental agreement; 141

(5) Charge any owner any fee, charge, or assessment because 142
of the transfer of ownership of a home or because a home is moved 143
out of or into the manufactured home park, except a charge for the 144

actual costs and expenses that are incurred by the park operator 145
in moving the home out of or into the manufactured home park, or 146
in installing the home in the manufactured home park and that have 147
not been reimbursed by another tenant or owner. 148

(I) If the park operator violates any provision of divisions 149
(A) to (H) of this section, the tenant or owner may recover actual 150
damages resulting from the violation, and, if the tenant or owner 151
obtains a judgment, reasonable attorneys' fees, or terminate the 152
rental agreement. 153

(J) No rental agreement shall require a tenant or owner to 154
sell, lease, or sublet the tenant's or owner's interest in the 155
rental agreement or the manufactured or mobile home that is or 156
will be located on the lot that is the subject of the rental 157
agreement to any specific person or through any specific person as 158
the person's agent. 159

(K) No park operator shall enter into a rental agreement with 160
the owner of a manufactured or mobile home for the use of 161
residential premises, if the rental agreement requires the owner 162
of the home, as a condition to the owner's renting, occupying, or 163
remaining on the residential premises, to pay the park operator or 164
any other person specified in the rental agreement a fee or any 165
sum of money based on the sale of the home, unless the owner of 166
the home uses the park operator or other person as the owner's 167
agent in the sale of the home. 168

(L) A park operator and a tenant or owner may include in a 169
rental agreement any terms and conditions, including any term 170
relating to rent, the duration of an agreement, and any other 171
provisions governing the rights and obligations of the parties 172
that are not inconsistent with or prohibited by sections ~~3733.09~~ 173
4781.36 to ~~3733.20~~ 4781.52 of the Revised Code or any other rule 174
of law. 175

(M) Notwithstanding any other provision of the Revised Code, 176
the owner of a manufactured or mobile home may utilize the 177
services of a manufactured housing dealer or broker licensed under 178
Chapter 4781. of the Revised Code or a person properly licensed 179
under Chapter 4735. of the Revised Code to sell or lease the home. 180

Sec. 5301.072. (A) No covenant, condition, or restriction set 181
forth in a deed, and no rule, regulation, bylaw, or other 182
governing document or agreement of a homeowners, neighborhood, 183
civic, or other association, shall prohibit or be construed to 184
prohibit ~~the~~ any of the following: 185

(1) The placement on any property of a flagpole that is to be 186
used for the purpose of displaying, ~~or shall prohibit or be~~ 187
~~construed to prohibit~~ the flag of the United States; 188

(2) The display on any property of, the flag of the United 189
States if the flag is displayed in accordance with any of the 190
following: 191

~~(1)(a)~~ (a) The patriotic customs set forth in 4 U.S.C.A. 5-10, as 192
amended, governing the display and use of the flag of the United 193
States; 194

~~(2)(b)~~ (b) The consent of the property's owner or of any person 195
having lawful control of the property; 196

~~(3)(c)~~ (c) The recommended flagpole standards set forth in "Our 197
Flag," published pursuant to S.C.R. 61 of the 105th Congress, 1st 198
Session (1998); 199

~~(4)(d)~~ (d) Any federal law, proclamation of the president of the 200
United States or the governor, section of the Revised Code, or 201
local ordinance or resolution. 202

(3) The display of a service flag approved by the United 203
States secretary of defense for display in a window of the 204
residence of a member of the immediate family of an individual 205

serving in the armed forces of the United States. A service flag 206
includes a blue star banner, a gold star banner, and any other 207
flag the secretary of defense designates as a service flag. 208

(B) A covenant, condition, restriction, rule, regulation, 209
bylaw, governing document, or agreement or a construction of any 210
of these items that violates division (A) of this section is 211
against public policy and unenforceable in any court of this state 212
to the extent it violates that division. 213

Sec. 5311.191. (A) No declaration, bylaw, rule, regulation, 214
or agreement of a condominium property or construction of any of 215
these items by the board of managers of its unit owners 216
association shall prohibit ~~the~~ either of the following: 217

(1) The placement of a flagpole that is to be used for the 218
purpose of displaying, or ~~shall prohibit~~ the display of, the flag 219
of the United States on or within the limited common areas and 220
facilities of a unit owner or on the immediately adjacent exterior 221
of the building in which the unit of a unit owner is located, if 222
the flag is displayed in accordance with any of the following: 223

~~(1)~~(a) The patriotic customs set forth in 4 U.S.C.A. 5-10, as 224
amended, governing the display and use of the flag of the United 225
States; 226

~~(2)~~(b) The recommended flagpole standards set forth in "Our 227
Flag," published pursuant to S.C.R. 61 of the 105th Congress, 1st 228
Session (1998); 229

~~(3)~~(c) Any federal law, proclamation of the president of the 230
United States or the governor, section of the Revised Code, or 231
local ordinance or resolution. 232

(2) The display of a service flag approved by the United 233
States secretary of defense for display in a window of the 234
residence of a member of the immediate family of an individual 235

serving in the armed forces of the United States. A service flag 236
includes a blue star banner, a gold star banner, and any other 237
flag the secretary of defense designates as a service flag. 238

(B) A declaration, bylaw, rule, regulation, or agreement or 239
the construction of any of these items that violates division (A) 240
of this section is against public policy and unenforceable in any 241
court of this state to the extent it violates that division. 242

Sec. 5321.131. (A) No landlord shall include any restriction 243
in a rental agreement, or otherwise prohibit on a tenant's rental 244
property, either of the following: 245

(1) The display of the flag of the United States if the flag 246
is displayed in accordance with any of the following: 247

(a) The patriotic customs set forth in 4 U.S.C.A. 5-10, as 248
amended, governing the display and use of the flag of the United 249
States; 250

(b) Federal law, state law, or any local ordinance or 251
resolution; 252

(c) A proclamation of the president of the United States or 253
the governor of the state. 254

(2) The display of a service flag approved by the United 255
States secretary of defense for display in a window of the 256
residence of a member of the immediate family of an individual 257
serving in the armed forces of the United States. A service flag 258
includes a blue star banner, a gold star banner, and any other 259
flag the secretary of defense designates as a service flag. 260

(B) Any violation of this section is against public policy 261
and unenforceable. Any provision of a rental agreement that 262
violates this section is an unconscionable term under section 263
5321.14 of the Revised Code. 264

Section 2. That existing sections 4781.40, 5301.072, and 265

5311.191 of the Revised Code are hereby repealed.

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