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CS/CS/HB 437

2023 Legislature

1
2 An act relating to property owners' right to install,
3 display, and store items; amending s. 718.113, F.S.;
4 authorizing condominium unit owners to display certain
5 flags on Patriot Day; amending s. 720.304, F.S.;
6 authorizing homeowners to display a certain number of
7 specified flags regardless of certain prohibitions in
8 the governing documents of the homeowners'
9 association; defining the term "first responder flag";
10 creating s. 720.3045, F.S.; prohibiting homeowners'
11 associations from restricting parcel owners and their
12 tenants from installing, displaying, or storing items
13 on parcels under certain circumstances; providing
14 exceptions; amending s. 720.3075, F.S.; prohibiting
15 certain homeowners' association documents from
16 precluding property owners from displaying a certain
17 number of specified flags; requiring that such flags
18 be displayed in a specified manner; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsection (4) of section 718.113, Florida
24 Statutes, is amended to read:

25 718.113 Maintenance; limitation upon improvement; display

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of flag; hurricane shutters and protection; display of religious decorations.—

(4) Any unit owner may display one portable, removable United States flag in a respectful way and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Patriot Day, and Veterans Day, may display in a respectful way portable, removable official flags, not larger than 4 1/2 feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, regardless of any declaration rules or requirements dealing with flags or decorations.

Section 2. Paragraphs (a) and (b) of subsection (2) of section 720.304, Florida Statutes, are amended to read:

720.304 Right of owners to peaceably assemble; display of flags ~~flag~~; SLAPP suits prohibited.—

(2)(a) If any covenant, restriction, bylaw, rule, or requirement of an association prohibits a homeowner from displaying flags permitted under this paragraph, the ~~Any~~ homeowner may still display ~~one portable, removable United States flag or official flag of the State of Florida~~ in a respectful manner up to two of the following, ~~and one portable, removable~~ flags ~~official flag, in a respectful manner~~, not larger than 4 1/2 feet by 6 feet: ~~which represents~~

1. The United States flag.

2. The official flag of the State of Florida.

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3. A flag that represents the United States Army, Navy,
Air Force, Marine Corps, Space Force, or Coast Guard.~~, or~~

4. A POW-MIA flag.

5. A first responder flag. A first responder flag may
incorporate the design of any other flag permitted under this
paragraph to form a combined flag. For purposes of this
subsection, the term "first responder flag" means a flag that
recognizes and honors the service of any of the following:

a. Law enforcement officers as defined in s. 943.10(1).

b. Firefighters as defined in s. 112.191(1).

c. Paramedics or emergency medical technicians as those
terms are defined in s. 112.191(1).

d. Correctional officers as defined in s. 943.10(2).

e. 911 public safety telecommunicators as defined in s.
401.465(1).

f. Advanced practice registered nurses, licensed practical
nurses, or registered nurses as those terms are defined in s.
464.003.

g. Persons participating in a statewide urban search and
rescue program developed by the Division of Emergency Management
under s. 252.35.

h. Federal law enforcement officers as defined in 18
U.S.C. s. 115(c)(1), regardless of any covenants, restrictions,
bylaws, rules, or requirements of the association.

(b) Regardless of any covenants, restrictions, bylaws,

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76 | rules, or requirements of the association, a ~~Any~~ homeowner may
77 | erect a freestanding flagpole no more than 20 feet high on any
78 | portion of the homeowner's real property as long as, ~~regardless~~
79 | ~~of any covenants, restrictions, bylaws, rules, or requirements~~
80 | ~~of the association, if~~ the flagpole does not obstruct sightlines
81 | at intersections and is not erected within or upon an easement.
82 | The homeowner may further display in a respectful manner from
83 | that flagpole, ~~regardless of any covenants, restrictions,~~
84 | ~~bylaws, rules, or requirements of the association,~~ one official
85 | United States flag, not larger than 4 1/2 feet by 6 feet, and
86 | may additionally display one other official flag permitted under
87 | paragraph (a) of the State of Florida or the United States Army,
88 | ~~Navy, Air Force, Marines, Space Force, or Coast Guard, or a POW-~~
89 | ~~MIA flag.~~ Such additional flag must be equal in size to or
90 | smaller than the United States flag. The flagpole and display
91 | are subject to all building codes, zoning setbacks, and other
92 | applicable governmental regulations, including, but not limited
93 | to, noise and lighting ordinances in the county or municipality
94 | in which the flagpole is erected and all setback and locational
95 | criteria contained in the governing documents.

96 | Section 3. Section 720.3045, Florida Statutes, is created
97 | to read:

98 | 720.3045 Installation, display, and storage of items.—
99 | Regardless of any covenants, restrictions, bylaws, rules, or
100 | requirements of an association, and unless prohibited by general

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101 law or local ordinance, an association may not restrict parcel
102 owners or their tenants from installing, displaying, or storing
103 any items on a parcel which are not visible from the parcel's
104 frontage or an adjacent parcel, including, but not limited to,
105 artificial turf, boats, flags, and recreational vehicles.

106 Section 4. Subsection (3) of section 720.3075, Florida
107 Statutes, is amended to read:

108 720.3075 Prohibited clauses in association documents.—

109 (3) Homeowners' association documents, including
110 declarations of covenants, articles of incorporation, or bylaws,
111 may not preclude the display of up to two ~~one~~ portable,
112 removable flags as described in s. 720.304(2)(a) United States
113 ~~flag~~ by property owners. However, all flags ~~the flag~~ must be
114 displayed in a respectful manner, consistent with the
115 requirements for the United States flag under Title 36 U.S.C.
116 chapter 10.

117 Section 5. This act shall take effect July 1, 2023.