

Committee Substitute for Senate Bill No. 148

An act relating to to homeowners' associations; amending s. 720.304, F.S.; providing that any homeowner may display a United States flag; amending s. 720.3075, F.S.; prohibiting association documents from placing certain restrictions on the display of a United States flag; providing for retroactive application of the act; providing an effective date.

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

Section 1. Section 720.304, Florida Statutes, is amended to read:

720.304 Right of owners to peaceably assemble; display of flag.—

(1) All common areas and recreational facilities serving any homeowners' association shall be available to parcel owners in the homeowners' association served thereby and their invited guests for the use intended for such common areas and recreational facilities. The entity or entities responsible for the operation of the common areas and recreational facilities may adopt reasonable rules and regulations pertaining to the use of such common areas and recreational facilities. No entity or entities shall unreasonably restrict any parcel owner's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in common areas and recreational facilities.

(2) Any homeowner may display one portable, removable United States flag in a respectful manner, regardless of any declaration rules or requirements dealing with flags or decorations.

~~(3)(2)~~ Any owner prevented from exercising rights guaranteed by subsection (1) or subsection (2) may bring an action in the appropriate court of the county in which the alleged infringement occurred, and, upon favorable adjudication, the court shall enjoin the enforcement of any provision contained in any homeowners' association document or rule that operates to deprive the owner of such rights.

Section 2. Subsection (3) of section 720.3075, Florida Statutes, is amended to read:

720.3075 Prohibited clauses in association documents.—

(3) Homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude the display of one portable, removable United States flag by property owners. However, the flag must be displayed in a respectful manner way ~~and may be subject to reasonable standards for size, placement, and safety, as adopted by the homeowners' association, consistent with Title 36 U.S.C. chapter 10 and any local ordinances.~~

Section 3. This act applies retroactively regardless of any declaration rules or requirements of a homeowners' association dealing with flags or decorations.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor April 18, 2002.

Filed in Office Secretary of State April 18, 2002.