~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 9, 2022

**H. 3537**

Introduced by Reps. Bailey, McGarry, Fry, Bryant, Burns, Felder, Long, Pope, Gilliam and Caskey

S. Printed 3/9/22--H.

Read the first time January 12, 2021.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 3537) to amend Section 27‑1‑60, Code of Laws of South Carolina, 1976, relating to the rights of homeowners or tenants to fly the United States flag at, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, by striking Section 27-1-60(A) and (B) and inserting:

/ “Section 27‑1‑60. (A) Regardless of any restrictive covenant, declaration, rule, contractual provision, or other requirement concerning flags or decorations found in a deed, contract, lease, rental agreement, or homeowners’ association document, ~~any~~ a homeowner or tenant may display one portable, removable United States flag and one portable removable South Carolina flag in a respectful manner, consistent with 36 U.S.C. Sections 171‑178, as amended, on the premises of the property of which he is entitled to use. The above referenced governing documents applicable to the premises, including the bylaws of the homeowners’ association, also may not prohibit the installation of a flagpole for the display of the flag of the United States or South Carolina. However, the governing documents may include reasonable rules and regulations regarding the location and size of the flagpole.

(B)(1) ~~No~~ A homeowners’ association document may not preclude the display of one portable, removable United States flag or one portable, removable South Carolina flag by homeowners and the use of a flagpole for displaying the flag as provided in subsection (A). However, the flag must be displayed in a respectful manner, consistent with 36 U.S.C. Sections 171‑178, as amended.

(2) ~~No~~ A restrictive covenant in a deed may not preclude the display of one portable, removable United States flag or one portable, removable South Carolina flag on the property and the use of a flagpole for displaying the flag as provided in subsection (A). However, the flag must be displayed in a respectful manner, consistent with 36 U.S.C. Sections 171‑178, as amended.

(3) ~~No~~ A rental agreement, lease, or contract may not preclude the display of one portable, removable United States flag or one portable, removable South Carolina flag on the premises of any tenant and the use of a flagpole for displaying the flag as provided in subsection (A). However, the flag must be displayed in a respectful manner, consistent with 36 U.S.C. Sections 171‑178, as amended. /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill clarifies that a homeowners’ association restrictions may not prohibit the installation of a flagpole for the display of the United States flag. However, the homeowners’ association may provide reasonable rules and regulations regarding size and location of the flagpole. The bill does not operationally or fiscally impact state agencies. Expenses associated with revisions to forms and policies can be managed without state subsidy. Therefore, this bill does not have a fiscal impact.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 27‑1‑60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RIGHTS OF HOMEOWNERS OR TENANTS TO FLY THE UNITED STATES FLAG AT THEIR PREMISES, NOTWITHSTANDING THE PROVISIONS OF ANY HOMEOWNERS’ ASSOCIATION GOVERNING DOCUMENTS, CONTRACTUAL PROVISIONS, OR DEED COVENANTS TO THE CONTRARY, SO AS TO PROVIDE THAT THIS RIGHT INCLUDES THE RIGHT TO DISPLAY THE FLAG ON A FLAGPOLE INSTALLED AT THE PREMISES FOR THIS PURPOSE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 27‑1‑60 of the 1976 Code is amended to read:

“Section 27‑1‑60. (A) Regardless of any restrictive covenant, declaration, rule, contractual provision, or other requirement concerning flags or decorations found in a deed, contract, lease, rental agreement, or homeowners’ association document, ~~any~~ a homeowner or tenant may display one portable, removable United States flag in a respectful manner, consistent with 36 U.S.C. Sections 171‑178, as amended, on the premises of the property of which he is entitled to use. The above referenced governing documents applicable to the premises, including the bylaws of the homeowners’ association, also may not prohibit the installation of a flagpole for the display of the flag of the United States. However, the governing documents may include reasonable rules and regulations regarding the location and size of the flagpole.

(B)(1) ~~No~~ A homeowners’ association document may not preclude the display of one portable, removable United States flag by homeowners and the use of a flagpole for displaying the flag as provided in subsection (A). However, the flag must be displayed in a respectful manner, consistent with 36 U.S.C. Sections 171‑178, as amended.

(2) ~~No~~ A restrictive covenant in a deed may not preclude the display of one portable, removable United States flag on the property and the use of a flagpole for displaying the flag as provided in subsection (A). However, the flag must be displayed in a respectful manner, consistent with 36 U.S.C. Sections 171‑178, as amended.

(3) ~~No~~ A rental agreement, lease, or contract may not preclude the display of one portable, removable United States flag on the premises of any tenant and the use of a flagpole for displaying the flag as provided in subsection (A). However, the flag must be displayed in a respectful manner, consistent with 36 U.S.C. Sections 171‑178, as amended.

(C) For purposes of this section:

(1) ‘homeowner’ means a person who holds title to real property, in fee simple or otherwise including, but not limited to, an owner of real property subject to a homeowners’ association, an owner of an interest in a vacation time sharing plan, and a co‑owner under a horizontal property regime;

(2) ‘homeowners’ association’ has the same meaning as provided in Section 12‑43‑230;

(3) ‘homeowners’ association document’ includes, but is not limited to, declarations of covenants, articles of incorporation, bylaws, or any similar document concerning the rights of property owners to use their property; and

(4) ‘tenant’ means ~~any~~ a tenant under a rental agreement executed pursuant to Chapter 40, Title 27, ~~any~~ a tenant under a rental agreement executed pursuant to Chapter 47, Title 27, ~~any~~ a tenant under a vacation time sharing plan, ~~any~~ a tenant under a horizontal property regime, and ~~any~~ a person who leases commercial or residential real property under a contractual agreement.”

SECTION 2. This act takes effect upon approval by the Governor.

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