

SPONSOR: Rep. Atkins

HOUSE OF REPRESENTATIVES

147th GENERAL ASSEMBLY

HOUSE BILL NO. 44
AS AMENDED BY
HOUSE AMENDMENT NO. 2
AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY.

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

Section 1. Amend § 316, Title 25 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 316. Display of flags.

No restriction shall be enforceable with respect to real property which prohibits or limits the ability of a property owner or tenant to display the flag of the United States of America on a pole attached to the exterior of the property's building or structure within the owned or leased property's boundaries or on a flagpole located within the owned or leased property's boundaries, if the flagpole is installed prior to termination of any period of community developer control, provided such flag's measurement does not exceed 3 feet by 5 feet. and such flagpole installed by the owner does not exceed 25 feet in height and conforms to all setback requirements. Any such installed flagpole shall not be required to be removed after termination of community developer control.

Section 2. Amend § 2242, Title 25 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 2242. Display of flags.

Any unit owner shall have the right to display the flag of the United States of America, measuring up to 3 feet by 5 feet, on a pole located within the property's boundaries or attached to the exterior wall of the unit or the common elements proximate to the unit., provided such display conforms with § 316 of this title. This right may not be impaired by any state

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or private regulation or by any agreement, covenant or restriction whatsoever, including removal of property from the provisions of this chapter under subchapter VI of this chapter.

Unit owners may effect regulations consistent with this section.

Section 3. Amend § 81-320(c), Title 25 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 81-320. Rules.

(c) A rule regulating display of the flag of the United States must be consistent with federal law~~,~~ and § 316 of this title, but the rule may not prohibit the right of a unit owner to display the flag of the United States, measuring up to 3 feet by 5 feet, on a pole located within the property's boundaries or attached to the exterior wall of that unit owner's unit or the limited common elements appurtenant to that unit. Unless the declaration otherwise provides, no rule may prohibit the display on a unit or on a limited common element adjoining a unit of a flag of this State, or signs regarding candidates for public office or ballot questions, but the association may adopt rules governing the time, place, size, number or manner of those displays. Unless the declaration provides otherwise during the first 2 years of the period of declarant control, no rule may prohibit the right of a unit owner to display a "For Sale" sign, measuring up to 12 inches by 18 inches (12/'/' x 18/'/'), on the exterior wall of the unit owner's unit or the limited common elements appurtenant to that unit. Unless the declaration provides otherwise, the "For Sale" sign shall be entitled "For Sale" and may contain such information as accurately describes the unit and any applicable names, addresses and phone numbers of the person or persons who are offering the unit for sale.

(d) Unless otherwise permitted by the declaration or this chapter, an association may only adopt rules that affect the use of or behavior in units that may be used for residential purposes to:

(1) Prevent any use of a unit which violates the declaration;

(2) Regulate any behavior in or occupancy of a unit which violates the declaration or adversely affects the use and enjoyment of other units or the common elements by other unit owners; ~~or~~

(3) Permit installation of a flagpole located within the property's boundaries which does not exceed 25 feet in height and conforms to all setback requirements, for purposes of displaying the flag of the United States of America, provided such flag's measurement does not exceed 3 feet by 5 feet; or

(~~3~~4) Restrict the leasing of residential units to the extent those rules are reasonably designed to meet underwriting requirements of institutional lenders who regularly lend money secured by first mortgages on units in common interest communities or regularly purchase those mortgages.

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