

HOUSE BILL 1017

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HB 712/03 - ENV

2004 Regular Session
4lr0856

By: **Delegates Boteler, Cluster, Owings, Edwards, Amedori, Anderson, Aumann, Bartlett, Bates, Bohanan, Boschert, Boutin, Bromwell, Burns, Cadden, Cane, G. Clagett, Costa, Cryor, C. Davis, DeBoy, Donoghue, Dwyer, Eckardt, Elliott, Elmore, Frank, Fulton, Gilleland, Glassman, Haddaway, Hammen, Harrison, Hennessy, Hogan, Holmes, Impallaria, James, Jameson, Jennings, Kach, Kaiser, Kelly, Krebs, Krysiak, Leopold, McComas, McConkey, McDonough, McHale, McKee, McMillan, Menes, Miller, Minnick, Myers, O'Donnell, Parker, Parrott, Proctor, Quinter, Rudolph, Shank, Smigiel, Sophocleus, Sossi, Stern, Stocksdale, Stull, Taylor, Trueschler, V. Turner, Walkup, Weir, Weldon, Wood, and Zirkin**

Introduced and read first time: February 12, 2004
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 26, 2004

CHAPTER 529

1 AN ACT concerning

2 **Real Property - Display of United States Flag by Homeowners and Tenants**

3 FOR the purpose of providing that a homeowner or tenant may not be prohibited from
4 displaying on the premises of the property in which the homeowner or tenant is
5 entitled to reside one flag of the United States in a certain manner and subject
6 to certain reasonable rules and regulations regardless of the terms of any
7 contract, deed, covenant, restriction, instrument, declaration, rule, bylaw, lease
8 agreement, rental agreement, or any other document concerning the display of
9 flags or decorations on the property; providing that the terms of any contract,
10 deed, covenant, restriction, instrument, declaration, rule, bylaw, lease
11 agreement, rental agreement, or any other document concerning the display of
12 flags or decorations by a homeowner or tenant on residential property may not
13 prohibit or unduly restrict the right of a homeowner or tenant to display in a
14 certain manner and subject to certain reasonable rules and regulations one flag
15 of the United States on the premises of the property in which the homeowner or
16 tenant is entitled to reside; authorizing the board of directors of a condominium,
17 homeowners association, or housing cooperative, or a landlord to adopt certain
18 reasonable rules and regulations concerning the placement and manner of

1 display of certain flags; requiring the board of directors of a condominium,
2 homeowners association, or housing cooperative, or a landlord to hold a ~~public~~
3 ~~hearing~~ an open meeting and provide certain notice to affected homeowners and
4 tenants before adopting certain rules and regulations; ~~providing for the~~
5 ~~application of this Act~~; and generally relating to the display of the flag of the
6 United States by homeowners and tenants.

7 BY adding to
8 Article - Real Property
9 Section 14-128
10 Annotated Code of Maryland
11 (2003 Replacement Volume and 2003 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Real Property**

15 14-128.

16 (A) THE PROVISIONS OF THIS SECTION SHALL APPLY TO ANY RESIDENTIAL
17 PROPERTY, INCLUDING PROPERTY THAT IS SUBJECT TO THE PROVISIONS OF:

18 (1) TITLE 8, 8A, 11, 11A, OR 11B OF THIS ARTICLE; OR

19 (2) TITLE 5, SUBTITLE 6B OF THE CORPORATIONS AND ASSOCIATIONS
20 ARTICLE.

21 (B) REGARDLESS OF THE TERMS OF ANY CONTRACT, DEED, COVENANT,
22 RESTRICTION, INSTRUMENT, DECLARATION, RULE, BYLAW, LEASE AGREEMENT,
23 RENTAL AGREEMENT, OR ANY OTHER DOCUMENT CONCERNING THE DISPLAY OF
24 FLAGS OR DECORATIONS BY A HOMEOWNER OR TENANT ON RESIDENTIAL
25 PROPERTY, A HOMEOWNER OR TENANT MAY NOT BE PROHIBITED FROM DISPLAYING
26 ON THE PREMISES OF THE PROPERTY IN WHICH THE HOMEOWNER OR TENANT IS
27 ENTITLED TO RESIDE ONE PORTABLE, REMOVABLE FLAG OF THE UNITED STATES IN
28 A RESPECTFUL MANNER, CONSISTENT WITH 4 U.S.C. §§ 4 THROUGH 10, AS AMENDED,
29 AND SUBJECT TO REASONABLE RULES AND REGULATIONS ADOPTED PURSUANT TO
30 SUBSECTION (D) OF THIS SECTION.

31 (C) THE TERMS OF ANY CONTRACT, DEED, COVENANT, RESTRICTION,
32 INSTRUMENT, DECLARATION, RULE, BYLAW, LEASE AGREEMENT, RENTAL
33 AGREEMENT, OR ANY OTHER DOCUMENT CONCERNING THE DISPLAY OF FLAGS OR
34 DECORATIONS BY A HOMEOWNER OR TENANT ON RESIDENTIAL PROPERTY MAY NOT
35 PROHIBIT OR UNDULY RESTRICT THE RIGHT OF A HOMEOWNER OR TENANT TO
36 DISPLAY ON THE PREMISES OF THE PROPERTY IN WHICH THE HOMEOWNER OR
37 TENANT IS ENTITLED TO RESIDE ONE PORTABLE, REMOVABLE FLAG OF THE UNITED
38 STATES IN A RESPECTFUL MANNER, CONSISTENT WITH 4 U.S.C. §§ 4 THROUGH 10, AS
39 AMENDED, AND SUBJECT TO REASONABLE RULES AND REGULATIONS ADOPTED
40 UNDER SUBSECTION (D) OF THIS SECTION.

1 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD OF
2 DIRECTORS OF A CONDOMINIUM, HOMEOWNERS ASSOCIATION, OR HOUSING
3 COOPERATIVE, OR A LANDLORD MAY ADOPT REASONABLE RULES AND REGULATIONS
4 REGARDING THE PLACEMENT AND MANNER OF DISPLAY OF THE FLAG OF THE
5 UNITED STATES AND A FLAGPOLE USED TO DISPLAY THE FLAG OF THE UNITED
6 STATES ON THE PREMISES OF THE PROPERTY IN WHICH THE HOMEOWNER OR
7 TENANT IS ENTITLED TO RESIDE.

8 (2) BEFORE ADOPTING ANY RULES OR REGULATIONS UNDER
9 PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF DIRECTORS OF THE
10 CONDOMINIUM, HOMEOWNERS ASSOCIATION, OR HOUSING COOPERATIVE, OR THE
11 LANDLORD SHALL:

12 (I) ~~HOLD A PUBLIC HEARING~~ AN OPEN MEETING ON THE
13 PROPOSED RULES AND REGULATIONS FOR THE PURPOSE OF PROVIDING AFFECTED
14 HOMEOWNERS AND TENANTS AN OPPORTUNITY TO BE HEARD; AND

15 (II) PROVIDE ADVANCE NOTICE OF THE TIME AND PLACE OF THE
16 ~~PUBLIC HEARING~~ OPEN MEETING BY PUBLISHING THE NOTICE IN A COMMUNITY
17 NEWSLETTER, ON A COMMUNITY BULLETIN BOARD, BY MEANS PROVIDED IN THE
18 DOCUMENTS GOVERNING THE CONDOMINIUM, HOMEOWNERS ASSOCIATION, OR
19 HOUSING COOPERATIVE, OR IN THE LEASE, OR BY OTHER MEANS REASONABLY
20 CALCULATED TO INFORM THE AFFECTED HOMEOWNERS AND TENANTS.

21 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~
22 ~~construed to apply retroactively and shall be applied to and interpreted to affect,~~
23 ~~regardless of the date of adoption or effectiveness, any contract, deed, covenant,~~
24 ~~restriction, instrument, declaration, rule, bylaw, lease agreement, rental agreement,~~
25 ~~or any other document concerning the display of flags or decorations by a homeowner~~
26 ~~or tenant on residential property.~~

27 SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect October 1, 2004.