

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1298** Session of
2011

INTRODUCED BY KAUFFMAN, BOBACK, BENNINGHOFF, BRENNAN, BROOKS,
CALTAGIRONE, CLYMER, D. COSTA, COX, CREIGHTON, FLECK, GILLEN,
GINGRICH, GODSHALL, HEFFLEY, HESS, HICKERNELL, HORNAMAN,
KILLION, KIRKLAND, KORTZ, MAJOR, MARSICO, MILLARD, READSHAW,
REICHLEY, ROCK, SACCONI, SCHRODER, STABACK, SWANGER,
VULAKOVICH AND YOUNGBLOOD, APRIL 6, 2011

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 6, 2011

AN ACT

1 Amending the act of July 7, 2006 (P.L.608, No.93), entitled "An
2 act providing for the display of the American flag,
3 Commonwealth flag or military flag by residents in a unit
4 owners association, homeowners association or master
5 association," providing for the Honor and Remember Flag.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 2 and 3 of the act of July 7, 2006
9 (P.L.608, No.93), known as the American, Commonwealth and
10 Military Flag Act, are amended to read:

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "American flag." The flag of the United States, as defined
16 in 4 U.S.C. § 1 (relating to flag; stripes and stars on) and the
17 Executive Orders entered in connection with that section, made

1 of fabric, cloth or paper displayed from a staff or flagpole or
2 in a window. The term does not include a depiction or emblem of
3 the American flag made of lights, paint, roofing, siding, paving
4 materials, flora or balloons, or any other similar building,
5 landscaping or decorative component.

6 "Association." Any unit owners association in a common
7 interest community.

8 "Cemetery." A place for the disposal or burial of deceased
9 human beings by cremation or in a grave, mausoleum, vault,
10 columbarium or other receptacle, but the term does not include a
11 private family cemetery.

12 "Cemetery entity." Any person or entity, including a
13 cemetery company or association, who either:

- 14 (1) offers or sells to the public the ownership or the
15 right to use any cemetery lot; or
- 16 (2) maintains lots within a cemetery.

17 "Common interest community." Includes a cooperative, a
18 condominium and a planned community where an individual by
19 virtue of an ownership interest in any portion of real estate is
20 or may become obligated by covenant, easement or agreement
21 imposed upon the owner's interest to pay any amount for real
22 property taxes, insurance, maintenance, repair, improvement,
23 management, administration or regulation of any part of the real
24 estate other than the portion or interest owned solely by the
25 individual.

26 "Commonwealth flag." The flag of the Commonwealth as
27 described in section 1 of the act of June 13, 1907 (P.L.560,
28 No.373), entitled "An act designating the official flag of the
29 Commonwealth of Pennsylvania, and describing the same; providing
30 for the carrying of such flag by the regiments of the National

1 Guard of Pennsylvania; authorizing the Secretary of the
2 Commonwealth to provide, and have deposited in the office of
3 Secretary of the Commonwealth, a model of said flag, and making
4 an appropriation therefor." The term does not include a
5 depiction or emblem of the flag of the Commonwealth made of
6 lights, paint, roofing, siding, paving materials, flora or
7 balloons, or any other similar building, landscaping or
8 decorative component.

9 "Executive board." The body, regardless of name, designated
10 in the declaration to act on behalf of the association.

11 "Honor and Remember Flag." The Honor and Remember Flag
12 created by Honor and Remember, Inc.

13 "Lot" or "lots." Includes a lot, plot or part of a cemetery.

14 "Military flag." A flag of any branch of the United States
15 Armed Forces or the Pennsylvania National Guard and POW/MIA
16 flags made of fabric, cloth or paper displayed from a staff or
17 flagpole or in a window. The term does not include a depiction
18 or emblem of a military flag made of lights, paint, roofing,
19 siding, paving materials, flora or balloons, or any other
20 similar building, landscaping or decorative component.

21 "Unit owner." Any unit owner in a common interest community.
22 The term shall include any proprietary lessee in a cooperative
23 as defined in 68 Pa.C.S. § 4103 (relating to definitions) or in
24 any successor statute.

25 Section 3. Display of American flag, Commonwealth flag and
26 military flag.

27 (a) General rule.--Notwithstanding any provision in the
28 association's declaration, covenants, bylaws, rules, regulations
29 or other instruments or any construction of any of those
30 instruments by an association's executive board, an association

1 may not prohibit the outdoor display of one American flag,
2 Commonwealth flag [and], military flag or Honor and Remember
3 Flag by a unit owner on that unit owner's property or property
4 within the exclusive control of a unit owner or that portion of
5 an exterior wall directly attached to the unit if the American
6 flag is displayed in a manner consistent with 4 U.S.C. §§ 4
7 (relating to pledge of allegiance to the flag; manner of
8 delivery) through 10 (relating to modification of rules and
9 customs by President) and a Commonwealth flag [or], military
10 flag or Honor and Remember Flag is displayed in accordance with
11 any rules and regulations adopted by the association. An
12 association may adopt rules and regulations, consistent with 4
13 U.S.C. §§ 4 through 10, regarding the placement and manner of
14 display of the American flag, and an association may adopt rules
15 and regulations regarding the placement and manner of display of
16 a Commonwealth flag [or], military flag or Honor and Remember
17 Flag. An association may adopt rules and regulations regarding
18 the location, size and use of a flagpole but cannot prohibit the
19 use of wall brackets to display the American flag, Commonwealth
20 flag [and], military flag or Honor and Remember Flag. The size
21 of the American flag, Commonwealth flag [and], military flag or
22 Honor and Remember Flag to be flown shall not be larger than
23 five feet by three feet. In addition, any rules and regulations
24 adopted by the association regarding the display of a military
25 flag or Honor and Remember Flag must permit the flying of such
26 flags, in a respectful way, on President's Day, Iwo Jima Flag
27 Raising Day, Vietnam Veterans Day, V-E Day, Armed Forces Day,
28 Memorial Day, Flag Day, Independence Day, Korean War Veterans
29 Armistice Day, V-J Day, Patriot's Day, POW/MIA Recognition Day,
30 Veterans Day, Pearl Harbor Day and the birthday of each branch

1 of the United States Armed Forces.

2 (b) Cemetery entity.--A cemetery entity may not prohibit the
3 outdoor display of one American flag, Commonwealth flag [and],
4 military flag or Honor and Remember Flag on lots if the American
5 flag is displayed in a manner consistent with 4 U.S.C. §§ 4
6 through 10 and a Commonwealth flag [or],military flag or Honor
7 and Remember Flag is displayed in accordance with any rules and
8 regulations adopted by the cemetery entity. A cemetery entity
9 may adopt rules and regulations, consistent with 4 U.S.C. §§ 4
10 through 10, regarding the placement and manner of display of the
11 American flag, and a cemetery entity may adopt rules and
12 regulations regarding the placement and manner of display of a
13 Commonwealth flag [or],military flag or Honor and Remember
14 Flag. A cemetery entity may adopt rules and regulations
15 regarding the size and location of flags on lots, but such rules
16 or regulations shall not be used as subterfuge to defeat the
17 purposes of this act. A cemetery entity must permit the flying
18 of military flags or Honor and Remember Flags, in a respectful
19 way, on President's Day, Iwo Jima Flag Raising Day, Vietnam
20 Veteran's Day, V-E Day, Armed Forces Day, Memorial Day, Flag
21 Day, Independence Day, Korean War Veterans Armistice Day, V-J
22 Day, Patriot's Day, POW/MIA Recognition Day, Veterans Day, Pearl
23 Harbor Day and the birthday of each branch of the United States
24 Armed Forces. Nothing in this act shall preclude a lot owner or
25 his heirs or assigns from limiting or prohibiting the display of
26 an American flag, Commonwealth flag [or],military flag or Honor
27 and Remember Flag on a lot.

28 Section 2. This act shall take effect in 60 days.