

No. 2006-93

AN ACT

SB 82

Providing for the display of the American flag, Commonwealth flag or military flag by residents in a unit owners association, homeowners association or master association.

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

Section 1. Short title.

This act shall be known and may be cited as the American, Commonwealth and Military Flag Act.

Section 2. Definitions.

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

“American flag.” The flag of the United States, as defined in 4 U.S.C. § 1 (relating to flag; stripes and stars on) and the Executive Orders entered in connection with that section, made of fabric, cloth or paper displayed from a staff or flagpole or in a window. The term does not include a depiction or emblem of the American flag made of lights, paint, roofing, siding, paving materials, flora or balloons, or any other similar building, landscaping or decorative component.

“Association.” Any unit owners association in a common interest community.

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

“Cemetery entity.” Any person or entity, including a cemetery company or association, who either:

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

“Common interest community.” Includes a cooperative, a condominium and a planned community where an individual by virtue of an ownership interest in any portion of real estate is or may become obligated by covenant, easement or agreement imposed upon the owner’s interest to pay any amount for real property taxes, insurance, maintenance, repair, improvement, management, administration or regulation of any part of the real estate other than the portion or interest owned solely by the individual.

“Commonwealth flag.” The flag of the Commonwealth as described in section 1 of the act of June 13, 1907 (P.L.560, No.373), entitled “An act designating the official flag of the Commonwealth of Pennsylvania, and

describing the same; providing for the carrying of such flag by the regiments of the National Guard of Pennsylvania; authorizing the Secretary of the Commonwealth to provide, and have deposited in the office of Secretary of the Commonwealth, a model of said flag, and making an appropriation therefor." The term does not include a depiction or emblem of the flag of the Commonwealth made of lights, paint, roofing, siding, paving materials, flora or balloons, or any other similar building, landscaping or decorative component.

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

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

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

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

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

(a) General rule.—Notwithstanding any provision in the association's declaration, covenants, bylaws, rules, regulations or other instruments or any construction of any of those instruments by an association's executive board, an association may not prohibit the outdoor display of one American flag, Commonwealth flag and military flag by a unit owner on that unit owner's property or property within the exclusive control of a unit owner or that portion of an exterior wall directly attached to the unit if the American flag is displayed in a manner consistent with 4 U.S.C. §§ 4 (relating to pledge of allegiance to the flag; manner of delivery) through 10 (relating to modification of rules and customs by President) and a Commonwealth flag or military flag is displayed in accordance with any rules and regulations adopted by the association. An association may adopt rules and regulations, consistent with 4 U.S.C. §§ 4 through 10, regarding the placement and manner of display of the American flag, and an association may adopt rules and regulations regarding the placement and manner of display of a Commonwealth flag or military flag. An association may adopt rules and regulations regarding the location, size and use of a flagpole but cannot prohibit the use of wall brackets to display the American flag, Commonwealth flag and military flag. The size of the American flag, Commonwealth flag and military flag to be flown shall not be larger than five feet by three feet. In addition, any rules and regulations adopted by the association regarding the display of a military flag must permit the flying of such flags, in a respectful way, on President's Day, Iwo Jima Flag Raising Day, Vietnam Veterans Day, V-E Day, Armed Forces Day, Memorial Day,

Flag Day, Independence Day, Korean War Veterans Armistice Day, V-J Day, Patriot's Day, POW/MIA Recognition Day, Veterans Day, Pearl Harbor Day and the birthday of each branch of the United States Armed Forces.

(b) Cemetery entity.—A cemetery entity may not prohibit the outdoor display of one American flag, Commonwealth flag and military flag on lots if the American flag is displayed in a manner consistent with 4 U.S.C. §§ 4 through 10 and a Commonwealth flag or military flag is displayed in accordance with any rules and regulations adopted by the cemetery entity. A cemetery entity may adopt rules and regulations, consistent with 4 U.S.C. §§ 4 through 10, regarding the placement and manner of display of the American flag, and a cemetery entity may adopt rules and regulations regarding the placement and manner of display of a Commonwealth flag or military flag. A cemetery entity may adopt rules and regulations regarding the size and location of flags on lots, but such rules or regulations shall not be used as subterfuge to defeat the purposes of this act. A cemetery entity must permit the flying of military flags, in a respectful way, on President's Day, Iwo Jima Flag Raising Day, Vietnam Veteran's Day, V-E Day, Armed Forces Day, Memorial Day, Flag Day, Independence Day, Korean War Veterans Armistice Day, V-J Day, Patriot's Day, POW/MIA Recognition Day, Veterans Day, Pearl Harbor Day and the birthday of each branch of the United States Armed Forces. Nothing in this act shall preclude a lot owner or his heirs or assigns from limiting or prohibiting the display of an American flag, Commonwealth flag or military flag on a lot.

Section 4. Effective date.

This act shall take effect in 30 days.

APPROVED—The 7th day of July, A.D. 2006.

EDWARD G. RENDELL