

114TH CONGRESS  
2D SESSION

# H. R. 1301

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2016

Received

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## AN ACT

To direct the Federal Communications Commission to amend its rules so as to prohibit the application to amateur stations of certain private land use restrictions, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Amateur Radio Parity  
3 Act of 2016”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) More than 730,000 radio amateurs in the  
7 United States are licensed by the Federal Commu-  
8 nications Commission in the amateur radio services.

9 (2) Amateur radio, at no cost to taxpayers, pro-  
10 vides a fertile ground for technical self-training in  
11 modern telecommunications, electronics technology,  
12 and emergency communications techniques and pro-  
13 tocols.

14 (3) There is a strong Federal interest in the ef-  
15 fective performance of amateur stations established  
16 at the residences of licensees. Such stations have  
17 been shown to be frequently and increasingly pre-  
18 cluded by unreasonable private land use restrictions,  
19 including restrictive covenants.

20 (4) Federal Communications Commission regu-  
21 lations have for three decades prohibited the applica-  
22 tion to stations in the amateur service of State and  
23 local regulations that preclude or fail to reasonably  
24 accommodate amateur service communications, or  
25 that do not constitute the minimum practicable reg-  
26 ulation to accomplish a legitimate State or local pur-

1 pose. Commission policy has been and is to require  
2 States and localities to permit erection of a station  
3 antenna structure at heights and dimensions suffi-  
4 cient to accommodate amateur service communica-  
5 tions.

6 (5) The Commission has sought guidance and  
7 direction from Congress with respect to the applica-  
8 tion of the Commission's limited preemption policy  
9 regarding amateur service communications to private  
10 land use restrictions, including restrictive covenants.

11 (6) There are aesthetic and common property  
12 considerations that are uniquely applicable to private  
13 land use regulations and the community associations  
14 obligated to enforce covenants, conditions, and re-  
15 strictions in deed-restricted communities. These con-  
16 siderations are dissimilar to those applicable to State  
17 law and local ordinances regulating the same resi-  
18 dential amateur radio facilities.

19 (7) In recognition of these considerations, a  
20 separate Federal policy than exists at section  
21 97.15(b) of title 47, Code of Federal Regulations, is  
22 warranted concerning amateur service communica-  
23 tions in deed-restricted communities.

24 (8) Community associations should fairly ad-  
25 minister private land use regulations in the interest

1 of their communities, while nevertheless permitting  
2 the installation and maintenance of effective outdoor  
3 amateur radio antennas. There exist antenna de-  
4 signs and installations that can be consistent with  
5 the aesthetics and physical characteristics of land  
6 and structures in community associations while ac-  
7 commodating communications in the amateur radio  
8 services.

9 **SEC. 3. APPLICATION OF PRIVATE LAND USE RESTRIC-**  
10 **TIONS TO AMATEUR STATIONS.**

11 (a) AMENDMENT OF FCC RULES.—Not later than  
12 120 days after the date of the enactment of this Act, the  
13 Federal Communications Commission shall amend section  
14 97.15 of title 47, Code of Federal Regulations, by adding  
15 a new paragraph that prohibits the application to amateur  
16 stations of any private land use restriction, including a  
17 restrictive covenant, that—

18 (1) on its face or as applied, precludes commu-  
19 nications in an amateur radio service;

20 (2) fails to permit a licensee in an amateur  
21 radio service to install and maintain an effective out-  
22 door antenna on property under the exclusive use or  
23 control of the licensee; or

24 (3) does not constitute the minimum practicable  
25 restriction on such communications to accomplish

1 the lawful purposes of a community association seek-  
2 ing to enforce such restriction.

3 (b) ADDITIONAL REQUIREMENTS.—In amending its  
4 rules as required by subsection (a), the Commission  
5 shall—

6 (1) require any licensee in an amateur radio  
7 service to notify and obtain prior approval from a  
8 community association concerning installation of an  
9 outdoor antenna;

10 (2) permit a community association to prohibit  
11 installation of any antenna or antenna support  
12 structure by a licensee in an amateur radio service  
13 on common property not under the exclusive use or  
14 control of the licensee; and

15 (3) subject to the standards specified in para-  
16 graphs (1) and (2) of subsection (a), permit a com-  
17 munity association to establish reasonable written  
18 rules concerning height, location, size, and aesthetic  
19 impact of, and installation requirements for, outdoor  
20 antennas and support structures for the purpose of  
21 conducting communications in the amateur radio  
22 services.

1 **SEC. 4. AFFIRMATION OF LIMITED PREEMPTION OF STATE**  
2 **AND LOCAL LAND USE REGULATION.**

3 The Federal Communications Commission may not  
4 change section 97.15(b) of title 47, Code of Federal Regu-  
5 lations, which shall remain applicable to State and local  
6 land use regulation of amateur service communications.

7 **SEC. 5. DEFINITIONS.**

8 In this Act:

9 (1) **COMMUNITY ASSOCIATION.**—The term  
10 “community association” means any non-profit man-  
11 datory membership organization composed of owners  
12 of real estate described in a declaration of covenants  
13 or created pursuant to a covenant or other applica-  
14 ble law with respect to which a person, by virtue of  
15 the person’s ownership of or interest in a unit or  
16 parcel, is obligated to pay for a share of real estate  
17 taxes, insurance premiums, maintenance, improve-  
18 ment, services, or other expenses related to common  
19 elements, other units, or any other real estate other  
20 than the unit or parcel described in the declaration.

21 (2) **TERMS DEFINED IN REGULATIONS.**—The  
22 terms “amateur radio services”, “amateur service”,  
23 and “amateur station” have the meanings given

1 such terms in section 97.3 of title 47, Code of Fed-  
2 eral Regulations.

Passed the House of Representatives September 12,  
2016.

Attest:

KAREN L. HAAS,

*Clerk.*