

Union Calendar No. 568

114TH CONGRESS
2^D SESSION

H. R. 1301

[Report No. 114-732]

To direct the Federal Communications Commission to extend to private land use restrictions its rule relating to reasonable accommodation of amateur service communications.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2015

Mr. KINZINGER of Illinois (for himself, Mr. COURTNEY, Mr. FRELINGHUYSEN, Mr. ISRAEL, Mr. GRIFFITH, Mr. KING of New York, Mr. TONKO, Mr. WOMACK, Mrs. NAPOLITANO, Mr. FORTENBERRY, Mr. WALBERG, Ms. JENKINS of Kansas, and Mr. PRICE of North Carolina) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 9, 2016

Additional sponsors: Mr. WELCH, Mr. HECK of Nevada, Mr. COLLINS of New York, Mr. DEFazio, Mr. GRAVES of Missouri, Mr. LANCE, Mr. LIPINSKI, Mrs. KIRKPATRICK, Mr. HARPER, Mr. LUETKEMEYER, Mrs. WALORSKI, Mr. BENISHEK, Mr. ENGEL, Mr. JOYCE, Mr. PIERLUISI, Ms. GRANGER, Mr. SMITH of New Jersey, Mr. CALVERT, Mr. BARLETTA, Mr. AMODEI, Mr. HANNA, Mr. CRAMER, Mr. GIBSON, Mr. ROONEY of Florida, Mr. GOODLATTE, Mr. WESTERMAN, Mr. HUFFMAN, Mr. SESSIONS, Mr. JOHNSON of Ohio, Mr. SEAN PATRICK MALONEY of New York, Ms. MENG, Mr. CARTER of Georgia, Mr. ROGERS of Alabama, Ms. PINGREE, Mr. GUTHRIE, Mr. WEBSTER of Florida, Mr. HIMES, Mr. WILLIAMS, Mr. PERLMUTTER, Mr. OLSON, Mr. SHIMKUS, Mr. WENSTRUP, Mr. DENHAM, Mr. HINOJOSA, Mr. WEBER of Texas, Mr. KATKO, Mr. MILLER of Florida, Mr. JONES, Mr. ROKITA, Mr. CÁRDENAS, Mr. GROTHMAN, Mr. REED, Mr. BISHOP of Michigan, Mr. FLORES, Mr. MCHENRY, Ms. KUSTER, Mr. CARNEY, Mrs. BLACKBURN, Mr. SALMON, Mr. YOUNG of Alaska, Mr. BISHOP of Georgia, Mr. SMITH of Texas, Mr. ROYCE, Mr. YODER, Ms. HAHN, Mr. ROUZER, Mr. HUIZENGA of Michigan, Mr. HUNTER, Mr. NEWHOUSE, Ms. BROWN of Florida, Mr. KLINE, Miss RICE of New York, Mr. PETERSON, Mr. COFFMAN, Ms. SLAUGHTER, Mr.

McGOVERN, Mr. MURPHY of Pennsylvania, Mr. TED LIEU of California, Mr. DOLD, Mr. MARCHANT, Ms. ESTY, Ms. ROS-LEHTINEN, Mr. RODNEY DAVIS of Illinois, Ms. BORDALLO, Mrs. NOEM, Mr. LARSON of Connecticut, Mr. BUCSHON, Mr. CHABOT, Mr. BOST, Mr. LOBIONDO, Ms. JACKSON LEE, Ms. CLARK of Massachusetts, Mr. MACARTHUR, Mr. CLAWSON of Florida, Mr. KELLY of Pennsylvania, Mrs. MIMI WALTERS of California, Mrs. ELLMERS of North Carolina, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KIND, Mr. GENE GREEN of Texas, Mr. SAM JOHNSON of Texas, Ms. MOORE, Mr. WALDEN, Mr. VELA, Mr. BRADY of Pennsylvania, Ms. KAPTUR, Mr. PEARCE, Mr. O'ROURKE, Mr. JENKINS of West Virginia, Mr. KNIGHT, Mr. BOUSTANY, Mr. MEEHAN, Mr. GUINTA, and Mr. DUFFY

Deleted sponsor: Mr. ZINKE (added April 21, 2015; deleted December 11, 2015)

SEPTEMBER 9, 2016

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 4, 2015]

A BILL

To direct the Federal Communications Commission to extend to private land use restrictions its rule relating to reasonable accommodation of amateur service communications.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Amateur Radio Parity*
5 *Act of 2016”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds the following:*

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

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

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

22 (4) *Federal Communications Commission regula-*
23 *tions have for three decades prohibited the application*
24 *to stations in the amateur service of State and local*
25 *regulations that preclude or fail to reasonably accom-*

1 *moderate amateur service communications, or that do*
2 *not constitute the minimum practicable regulation to*
3 *accomplish a legitimate State or local purpose. Com-*
4 *mission policy has been and is to require States and*
5 *localities to permit erection of a station antenna*
6 *structure at heights and dimensions sufficient to ac-*
7 *commodate amateur service communications.*

8 *(5) The Commission has sought guidance and di-*
9 *rection from Congress with respect to the application*
10 *of the Commission's limited preemption policy re-*
11 *garding amateur service communications to private*
12 *land use restrictions, including restrictive covenants.*

13 *(6) There are aesthetic and common property*
14 *considerations that are uniquely applicable to private*
15 *land use regulations and the community associations*
16 *obligated to enforce covenants, conditions, and restric-*
17 *tions in deed-restricted communities. These consider-*
18 *ations are dissimilar to those applicable to State law*
19 *and local ordinances regulating the same residential*
20 *amateur radio facilities.*

21 *(7) In recognition of these considerations, a sepa-*
22 *rate Federal policy than exists at section 97.15(b) of*
23 *title 47, Code of Federal Regulations, is warranted*
24 *concerning amateur service communications in deed-*
25 *restricted communities.*

1 (8) *Community associations should fairly ad-*
2 *minister private land use regulations in the interest*
3 *of their communities, while nevertheless permitting*
4 *the installation and maintenance of effective outdoor*
5 *amateur radio antennas. There exist antenna designs*
6 *and installations that can be consistent with the aes-*
7 *thetics and physical characteristics of land and struc-*
8 *tures in community associations while accommo-*
9 *dating communications in the amateur radio services.*

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

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

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

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

1 (3) does not constitute the minimum practicable
2 restriction on such communications to accomplish the
3 lawful purposes of a community association seeking
4 to enforce such restriction.

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

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

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

16 (3) subject to the standards specified in para-
17 graphs (1) and (2) of subsection (a), permit a com-
18 munity association to establish reasonable written
19 rules concerning height, location, size, and aesthetic
20 impact of, and installation requirements for, outdoor
21 antennas and support structures for the purpose of
22 conducting communications in the amateur radio
23 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 Regula-*
5 *tions, which shall remain applicable to State and local land*
6 *use regulation of amateur service communications.*

7 **SEC. 5. DEFINITIONS.**

8 *In this Act:*

9 (1) **COMMUNITY ASSOCIATION.**—*The term “com-*
10 *munity association” means any non-profit manda-*
11 *tory membership organization composed of owners of*
12 *real estate described in a declaration of covenants or*
13 *created pursuant to a covenant or other applicable*
14 *law with respect to which a person, by virtue of the*
15 *person’s ownership of or interest in a unit or parcel,*
16 *is obligated to pay for a share of real estate taxes, in-*
17 *surance premiums, maintenance, improvement, serv-*
18 *ices, or other expenses related to common elements,*
19 *other units, or any other real estate other than the*
20 *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 such*
24 *terms in section 97.3 of title 47, Code of Federal Reg-*
25 *ulations.*

Amend the title so as to read: “A bill 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.”.

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