

As Introduced

124th General Assembly
Regular Session
2001-2002

H. B. No. 539

REPRESENTATIVES Raga, Husted, Evans, Schmidt, Faber, Clancy, Fessler,
Willamowski, Latta, Webster, Hollister, Roman, Brown, Aslanides,
Carmichael, Collier, Schaffer, Rhine, Jolivette, Lendrum, Allen

A BILL

To enact sections 5301.072 and 5311.191 of the Revised Code to declare as against public policy and as unenforceable deed restrictions and condominium, homeowner, neighborhood, and civic association rules, regulations, bylaws, and other governing documents to the extent they prohibit the display of or the placement of flagpoles for the display of the United States flag in certain manners.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5301.072 and 5311.191 of the Revised Code be enacted to read as follows:

Sec. 5301.072. (A) No covenant, condition, or restriction set forth in a deed, and no rule, regulation, bylaw, or other governing document or agreement of a homeowners, neighborhood, civic, or other association, shall prohibit or be construed to prohibit the placement on any property of a flagpole that is to be used for the purpose of displaying, or shall prohibit or be construed to prohibit the display on any property of, the flag of the United States if the flag is displayed in accordance with any

of the following:

(1) The patriotic customs set forth in 4 U.S.C.A. 5-10, as amended, governing the display and use of the flag of the United States;

(2) The consent of the property's owner or of any person having lawful control of the property;

(3) The recommended flagpole standards set forth in "Our Flag," published pursuant to S.C.R. 61 of the 105th Congress, 1st Session (1998);

(4) Any federal law, proclamation of the president of the United States or the governor, section of the Revised Code, or local ordinance or resolution.

(B) A covenant, condition, restriction, rule, regulation, bylaw, governing document, or agreement or a construction of any of these items that violates division (A) of this section is against public policy and unenforceable in any court of this state to the extent it violates that division.

Sec. 5311.191. (A) No declaration, bylaw, rule, regulation, or agreement of a condominium property or construction of any of these items by the board of managers of its unit owners association shall prohibit the placement of a flagpole that is to be used for the purpose of displaying, or shall prohibit the display of, the flag of the United States on or within the limited common areas and facilities of a unit owner or on the immediately adjacent exterior of the building in which the unit of a unit owner is located, if the flag is displayed in accordance with any of the following:

(1) The patriotic customs set forth in 4 U.S.C.A. 5-10, as amended, governing the display and use of the flag of the United States;

(2) The recommended flagpole standards set forth in "Our Flag," published pursuant to S.C.R. 61 of the 105th Congress, 1st Session (1998); 49
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(3) Any federal law, proclamation of the president of the United States or the governor, section of the Revised Code, or local ordinance or resolution. 52
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(B) A declaration, bylaw, rule, regulation, or agreement or the construction of any of these items that violates division (A) of this section is against public policy and unenforceable in any court of this state to the extent it violates that division. 55
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Section 2. This act does not affect any legally binding 59
covenant, condition, or restriction set forth in a deed recorded 60
before the effective date of this act; any legally binding 61
declaration or bylaw of a condominium property recorded before the 62
effective date of this act; or, to the extent it is contractually 63
or otherwise legally binding on the effective date of this act, 64
any rule, regulation, other type of bylaw, governing document, or 65
agreement referred to in section 5301.072 or 5311.191 of the 66
Revised Code, as enacted by this act, that is in existence on that 67
date. 68