

As Passed by the Senate

**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, Peterson,
Latell, Buehrer, Young, Hagan, Grendell, Seitz, Flowers, Schuring, Seaver,
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Hoops, Britton, Sferra, Coates, Carano, Kilbane, Salerno, Cates, Gilb, Kearns,
Flannery, Setzer, DeWine, Schneider, Womer Benjamin, Trakas, Otterman,
DeBose**

**SENATORS Robert Gardner, Jordan, Coughlin, Mumper, Amstutz, Austria,
Harris, Spada, Wachtmann, White**

A B I L L

To enact sections 5301.072 and 5311.191 of the Revised 1
Code to declare as against public policy and as 2
unenforceable deed restrictions and condominium, 3
homeowner, neighborhood, and civic association 4
rules, regulations, bylaws, and other governing 5
documents to the extent they prohibit the display 6
of or the placement of flagpoles for the display of 7
the United States flag in certain manners. 8

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

Section 1. That sections 5301.072 and 5311.191 of the Revised 9
Code be enacted to read as follows: 10

Sec. 5301.072. (A) No covenant, condition, or restriction set 11

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);

(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.

(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.

Section 2. This act does not affect any legally binding covenant, condition, or restriction set forth in a deed recorded before the effective date of this act; any legally binding declaration or bylaw of a condominium property recorded before the effective date of this act; or, to the extent it is contractually or otherwise legally binding on the effective date of this act, any rule, regulation, other type of bylaw, governing document, or agreement referred to in section 5301.072 or 5311.191 of the Revised Code, as enacted by this act, that is in existence on that date.

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