

As Reported by the House State Government Committee

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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

A B I L L

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

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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.