

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1301
OFFERED BY M . _____**

Strike all after the enacting clause and insert the following:

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-

1 cluded by unreasonable private land use restrictions,
2 including restrictive covenants.

3 (4) Federal Communications Commission regu-
4 lations have for three decades prohibited the applica-
5 tion to stations in the amateur service of State and
6 local regulations that preclude or fail to reasonably
7 accommodate amateur service communications, or
8 that do not constitute the minimum practicable reg-
9 ulation to accomplish a legitimate State or local pur-
10 pose. Commission policy has been and is to require
11 States and localities to permit erection of a station
12 antenna structure at heights and dimensions suffi-
13 cient to accommodate amateur service communica-
14 tions.

15 (5) The Commission has sought guidance and
16 direction from Congress with respect to the applica-
17 tion of the Commission's limited preemption policy
18 regarding amateur service communications to private
19 land use restrictions, including restrictive covenants.

20 (6) There are aesthetic and common property
21 considerations that are uniquely applicable to private
22 land use regulations and the community associations
23 obligated to enforce covenants, conditions, and re-
24 strictions in deed-restricted communities. These con-
25 siderations are dissimilar to those applicable to State

1 law and local ordinances regulating the same resi-
2 dential amateur radio facilities.

3 (7) In recognition of these considerations, a
4 separate Federal policy than exists at section
5 97.15(b) of title 47, Code of Federal Regulations, is
6 warranted concerning amateur service communica-
7 tions in deed-restricted communities.

8 (8) Community associations should fairly ad-
9 minister private land use regulations in the interest
10 of their communities, while nevertheless permitting
11 the installation and maintenance of effective outdoor
12 amateur radio antennas. There exist antenna de-
13 signs and installations that can be consistent with
14 the aesthetics and physical characteristics of land
15 and structures in community associations while ac-
16 commodating communications in the amateur radio
17 services.

18 **SEC. 3. APPLICATION OF PRIVATE LAND USE RESTRIC-**
19 **TIONS TO AMATEUR STATIONS.**

20 (a) AMENDMENT OF FCC RULES.—Not later than
21 120 days after the date of the enactment of this Act, the
22 Federal Communications Commission shall amend section
23 97.15 of title 47, Code of Federal Regulations, by adding
24 a new paragraph that prohibits the application to amateur

1 stations of any private land use restriction, including a
2 restrictive covenant, that—

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

5 (2) fails to permit a licensee in an amateur
6 radio service to install and maintain an effective out-
7 door antenna on property under the exclusive use or
8 control of the licensee; or

9 (3) does not constitute the minimum practicable
10 restriction on such communications to accomplish
11 the lawful purposes of a community association seek-
12 ing to enforce such restriction.

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

16 (1) require any licensee in an amateur radio
17 service to notify and obtain prior approval from a
18 community association concerning installation of an
19 outdoor antenna;

20 (2) permit a community association to prohibit
21 installation of any antenna or antenna support
22 structure by a licensee in an amateur radio service
23 on common property not under the exclusive use or
24 control of the licensee; and

1 (3) subject to the standards specified in para-
2 graphs (1) and (2) of subsection (a), permit a com-
3 munity association to establish reasonable written
4 rules concerning height, location, size, and aesthetic
5 impact of, and installation requirements for, outdoor
6 antennas and support structures for the purpose of
7 conducting communications in the amateur radio
8 services.

9 **SEC. 4. AFFIRMATION OF LIMITED PREEMPTION OF STATE**
10 **AND LOCAL LAND USE REGULATION.**

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

15 **SEC. 5. DEFINITIONS.**

16 In this Act:

17 (1) **COMMUNITY ASSOCIATION.**—The term
18 “community association” means any non-profit man-
19 datory membership organization composed of owners
20 of real estate described in a declaration of covenants
21 or created pursuant to a covenant or other applica-
22 ble law with respect to which a person, by virtue of
23 the person’s ownership of or interest in a unit or
24 parcel, is obligated to pay for a share of real estate
25 taxes, insurance premiums, maintenance, improve-

1 ment, services, or other expenses related to common
2 elements, other units, or any other real estate other
3 than the unit or parcel described in the declaration.

4 (2) TERMS DEFINED IN REGULATIONS.—The
5 terms “amateur radio services”, “amateur service”,
6 and “amateur station” have the meanings given
7 such terms in section 97.3 of title 47, Code of Fed-
8 eral Regulations.

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 pur-
poses.”.

