

115TH CONGRESS
1ST SESSION

S. 1534

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.

IN THE SENATE OF THE UNITED STATES

JULY 12, 2017

Mr. WICKER (for himself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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.

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 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

4 (2) Amateur radio, at no cost to taxpayers, pro-
5 vides a fertile ground for technical self-training in
6 modern telecommunications, electronics technology,
7 and emergency communications techniques and pro-
8 tocols.

9 (3) There is a strong Federal interest in the ef-
10 fective performance of amateur stations established
11 at the residences of licensees. Such stations have
12 been shown to be frequently and increasingly pre-
13 cluded by unreasonable private land use restrictions,
14 including restrictive covenants.

15 (4) Federal Communications Commission regu-
16 lations have for three decades prohibited the applica-
17 tion to stations in the amateur service of State and
18 local regulations that preclude or fail to reasonably
19 accommodate amateur service communications, or
20 that do not constitute the minimum practicable reg-
21 ulation to accomplish a legitimate State or local pur-
22 pose. Commission policy has been and is to require
23 States and localities to permit erection of a station
24 antenna structure at heights and dimensions suffi-

1 cient to accommodate amateur service communica-
2 tions.

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

8 (6) There are aesthetic and common property
9 considerations that are uniquely applicable to private
10 land use regulations and the community associations
11 obligated to enforce covenants, conditions, and re-
12 strictions in deed-restricted communities. These con-
13 siderations are dissimilar to those applicable to State
14 law and local ordinances regulating the same resi-
15 dential amateur radio facilities.

16 (7) In recognition of these considerations, a
17 separate Federal policy than exists at section
18 97.15(b) of title 47, Code of Federal Regulations, is
19 warranted concerning amateur service communica-
20 tions in deed-restricted communities.

21 (8) Community associations should fairly ad-
22 minister private land use regulations in the interest
23 of their communities, while nevertheless permitting
24 the installation and maintenance of effective outdoor
25 amateur radio antennas. There exist antenna de-

1 signs and installations that can be consistent with
 2 the aesthetics and physical characteristics of land
 3 and structures in community associations while ac-
 4 commodating communications in the amateur radio
 5 services.

6 **SEC. 3. APPLICATION OF PRIVATE LAND USE RESTRIC-**
 7 **TIONS TO AMATEUR STATIONS.**

8 (a) AMENDMENT OF FCC RULES.—Not later than
 9 120 days after the date of the enactment of this Act, the
 10 Federal Communications Commission shall amend section
 11 97.15 of title 47, Code of Federal Regulations, by adding
 12 a new paragraph that prohibits the application to amateur
 13 stations of any private land use restriction, including a
 14 restrictive covenant, that—

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

17 (2) fails to permit a licensee in an amateur
 18 radio service to install and maintain an effective out-
 19 door antenna on property under the exclusive use or
 20 control of the licensee; or

21 (3) does not constitute the minimum practicable
 22 restriction on such communications to accomplish
 23 the lawful purposes of a community association seek-
 24 ing to enforce such restriction.

1 (b) ADDITIONAL REQUIREMENTS.—In amending its
2 rules as required by subsection (a), the Commission
3 shall—

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

8 (2) permit a community association to prohibit
9 installation of any antenna or antenna support
10 structure by a licensee in an amateur radio service
11 on common property not under the exclusive use or
12 control of the licensee; and

13 (3) subject to the standards specified in para-
14 graphs (1) and (2) of subsection (a), permit a com-
15 munity association to establish reasonable written
16 rules concerning height, location, size, and aesthetic
17 impact of, and installation requirements for, outdoor
18 antennas and support structures for the purpose of
19 conducting communications in the amateur radio
20 services.

21 **SEC. 4. AFFIRMATION OF LIMITED PREEMPTION OF STATE**
22 **AND LOCAL LAND USE REGULATION.**

23 The Federal Communications Commission may not
24 change section 97.15(b) of title 47, Code of Federal Regu-

1 lations, which shall remain applicable to State and local
 2 land use regulation of amateur service communications.

3 **SEC. 5. DEFINITIONS.**

4 In this Act:

5 (1) **COMMUNITY ASSOCIATION.**—The term
 6 “community association” means any nonprofit man-
 7 datory membership organization composed of owners
 8 of real estate described in a declaration of covenants
 9 or created pursuant to a covenant or other applica-
 10 ble law with respect to which a person, by virtue of
 11 the person’s ownership of or interest in a unit or
 12 parcel, is obligated to pay for a share of real estate
 13 taxes, insurance premiums, maintenance, improve-
 14 ment, services, or other expenses related to common
 15 elements, other units, or any other real estate other
 16 than the unit or parcel described in the declaration.

17 (2) **TERMS DEFINED IN REGULATIONS.**—The
 18 terms “amateur radio services”, “amateur service”,
 19 and “amateur station” have the meanings given
 20 such terms in section 97.3 of title 47, Code of Fed-
 21 eral Regulations.

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