



Phil Mullin

## Bill Analysis

Legislative Service Commission

### H.B. 539\*

124th General Assembly  
(As Reported by H. State Government)

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

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#### BILL SUMMARY

- Declares 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 that they (1) prohibit the display, or placement of flagpoles for the display, of the United States flag in certain manners and (2) are not legally binding on the bill's effective date.

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#### CONTENT AND OPERATION

##### *Authority to display the flag notwithstanding private restrictions on property use*

The bill prohibits any covenant, condition, or restriction set forth (1) in a deed or (2) in any rule, regulation, bylaw, or other governing document or agreement of a homeowners, neighborhood, civic, or other association from forbidding or being construed to forbid (a) the *placement on any property of a flagpole* that will be used for the purpose of displaying the United States flag, or (b) *the display* of the United States flag on any property, if the flag is displayed in accordance with any of the following: (i) the patriotic customs set forth in federal law governing the display and use of the United States flag, (ii) the consent of the property's owner or of any person having lawful control of the property, (iii) the recommended flagpole standards set forth in "Our Flag," published pursuant to S.C.R. 61 of the 105th Congress, 1st Session (1998), or (iv) any federal law, proclamation of the President of the United States or the Governor, section of the Revised Code, or local ordinance or resolution (sec. 5301.072(A)). A covenant,

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\* *This analysis was prepared before the report of the House State Government Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

condition, restriction, rule, regulation, bylaw, governing document, or agreement, or a construction of any of these items, that violates this prohibition is against public policy and unenforceable in any Ohio court to the extent of the violation (sec. 5301.072(B)).

The bill further prohibits any declaration, bylaw, rule, regulation, or agreement of a *condominium property*, or any construction of any of these items by the board of managers of its unit owners association, from forbidding (1) the placement of a flagpole that will be used for the purpose of displaying the United States flag, or (2) the display of the United States flag, (a) on or within the *limited common areas* and facilities of a unit owner or (b) 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 the patriotic customs, flagpole standards, or laws or proclamations listed in (i), (iii), or (iv) above (sec. 5311.191(A)). A declaration, bylaw, rule, regulation, or agreement, or a construction of any of these items, that violates this prohibition is against public policy and unenforceable in any Ohio court to the extent of the violation (sec. 5311.191(B)).

**Prospective application of the bill**

The bill does not affect (1) any legally binding covenant, condition, or restriction set forth in a deed recorded before the bill's effective date, (2) any legally binding declaration or bylaw of a condominium property recorded before that date, or (3) any rule, regulation, or other type of bylaw, governing document, or agreement referred to in the bill that is in existence on its effective date, to the extent that it is contractually or otherwise legally binding on that date (Section 2).

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	03-13-02	p. 1547
Reported, H. State Gov't	---	---

H0539-RH.124/jc