**SUBSTITUTE AMENDMENT**

To direct the Federal Communications Commission to adopt a rule concerning private land use regulation of amateur service communications.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Amateur Radio Parity Act of 2015’’.

SEC. 2. FINDINGS.

Congress finds the following:

(1) More than 730,000 radio amateurs in the United States are licensed by the Federal

Communications Commission in the amateur radio service.

(2) Amateur radio, at no cost to taxpayers, provides a fertile ground for technical self-training in

modern telecommunications, electronics technology, and emergency communications techniques

and protocols.

(3) There is a strong Federal interest in the effective performance of amateur radio stations established at the residences of licensees. Such stations have been shown to be frequently and increasingly precluded by unreasonable private land use restrictions, including restrictive covenants.

(4) Federal Communications Commission regulations have for three decades prohibited the application to amateur radio stations of State and municipal regulations that preclude or fail to reasonably accommodate amateur service communications, or that do not constitute the minimum practicable regulation to accomplish a legitimate State or local purpose. Commission policy has been and is to require municipalities to permit erection of a station antenna structure at heights and dimensions sufficient to accommodate amateur service communications.

(5) The Commission has sought guidance and direction from Congress with respect to the application of the Commission’s limited preemption policy regarding amateur radio communications to private land use restrictions, including restrictive covenants. There are aesthetic and common property considerations that are uniquely applicable to private land use regulations and the community associations obligated to enforce covenants, conditions, and restrictions in deed-restricted communities. These considerations are dissimilar to those applicable to municipal ordinances regulating the same residential amateur radio facilities.

(6) In recognition of these considerations, a separate Federal policy than exists at Section 97.15(b) of Title 47, Code of Federal Regulations is warranted concerning amateur service communications in deed restricted communities.

(7) Community associations are called upon to fairly administer private land use regulations in

the interest of their communities, while nevertheless permitting the installation and maintenance

of effective and efficient outdoor amateur radio antennas. There exist antenna designs and installations that can be consistent with the aesthetics and physical characteristics of land and structures in community associations which can accommodate amateur service communications.

SEC. 3. HOMEOWNERS’ ASSOCIATION REGULATION OF AMATEUR SERVICE COMMUNICATIONS.

(a) Not later than 120 days after the date of the enactment of this Act, the Federal

Communications Commission shall amend Section 97.15 of Title 47, Code of Federal

Regulations, to add a new subsection thereto which prohibits the application to amateur radio stations of any private land use restriction, including a restrictive covenant, which:

(1) precludes such communications, on its face or as applied;

(2) fails to permit an Amateur Radio operator to install and maintain an effective outdoor antenna on property under the licensee’s exclusive control or use; or

(3) does not constitute the minimum practicable restriction on such communications to accomplish the lawful purposes of a community association seeking to enforce such restriction.

(b) In amending regulations pursuant to subsection (a), the Commission shall:

(1) require any amateur service licensee to notify and obtain prior approval from a

community association concerning installation of an outdoor antenna;

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

(3) subject to the standards specified in Subsections (a)(1) and (a)(2) above, permit a community association to establish reasonable written rules concerning height, location, size and aesthetic impact as well as installation requirements for outdoor antennas and support structures for the purpose of conducting amateur service communications.

(c) Definition.—For the purposes of this Act, the term ‘community association’ means any

non-profit mandatory membership organization composed of owners of real estate described in a

declaration of covenants or created pursuant to a covenant or other applicable law with respect to which a person, by virtue of the person’s ownership of or interest in a unit or parcel, is obligated to pay for a share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses related to, common elements, other units, or any other real estate other than the unit or parcel described in the declaration.

SEC. 4 AFFIRMATION OF LIMITED PREEMPTION OF STATE AND MUNICIPAL LAND

USE REGULATION.

The Commission shall make no change in Section 97.15(b) of Title 47, Code of Federal

Regulations, which will remain applicable to State and municipal land use regulation of amateur

radio communications.