

As you may know, on June 27, 2006, the United States House of Representatives passed HR 42 - The Freedom to Display the American Flag Act of 2005 - under suspension of the rules on the floor of the House. Following passage in the House, the bill was sent over the Senate. During the evening of July 17, 2006, Senate Majority Leader Frist brought the bill up on the floor of the Senate where it was passed by unanimous consent. President Bush signed HR 42 into law and it was effective immediately.

Community Association Institute's Public Policy

HR 42 complies substantially with CAI's Public Policy entitled "Display of the American Flag" which provides: CAI strongly supports the elimination of community association restrictions that prohibit the display of a reasonably sized, removable American flag from a resident's exclusive use or limited common element areas, so long as the flag is displayed in accordance with the Federal Flag Code as amended. CAI further believes that community associations - not a state law - are best suited to determine the appropriate size, placement and installation of a flag pole. In fact, Representative Bartlett from Maryland used CAI's Public Policy as the basis for the bill.

Provisions of HR 42

HR 42 has been reported in the press to ban associations from prohibiting the flying of the American flag. However, that is an overly broad interpretation of the provisions of the bill. While the legislation does prohibit an association from adopting or enforcing a policy or agreement that "would restrict or prevent a member of the association from displaying the flag of the United States on residential property within the association with respect to which such member has a separate ownership interest or a right to exclusive possession or use" the bill also provides the following limitations:

- 1.** Flags must be displayed consistent with the provisions of the Federal Flag Code, or any rule or custom pertaining to the proper display or use of the American flag; and
- 2.** Community associations may place reasonable restrictions pertaining to the time, place, or manner of displaying the American flag necessary to "protect a substantial interest" of the community association.

The text of HR 42 as passed by the House and Senate is included below.

Press Release (Click To View)

CAI distributed a press release after the measure was signed into law. The press release includes quotes from Rep. Roscoe Bartlett of Maryland, the sponsor of the bill, and Senate Majority Leader Frist.