

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 889

H.P. 674

House of Representatives, February 28, 2007

**An Act To Allow Apartment Building Owners To Prevent Damage  
to Property in the Installation of Over-the-air Reception Devices**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative MILLS of Farmington.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 14 MRSA §6041**, as enacted by PL 1987, c. 294, is amended to read:

3 **§6041. Installation; consent of building owner required**

4 **1. Installation.** A tenant in a multiple dwelling unit may subscribe to cable  
5 television service or use an over-the-air reception device, subject to the following  
6 provisions.

7 A. ~~A cable~~ An operator who affixes or causes to be affixed cable television  
8 facilities or an over-the-air reception device to the dwelling of a tenant shall do so at  
9 no cost to the owner of the dwelling; shall indemnify the owner immediately for  
10 damages, if any, arising from the installation or the continued operation of the  
11 installation, or both; and ~~shall~~ may not interfere with the safety, functioning,  
12 appearance or use of the dwelling, nor interfere with the rules of the owner dealing  
13 with the day-to-day operations of the property, including the owner's reasonable  
14 access rules for soliciting business.

15 Nothing in this section may prohibit an owner from contracting with the ~~eable~~  
16 operator for work in addition to standard installation.

17 B. ~~No cable~~ An operator may not enter into any agreement with persons owning,  
18 leasing, controlling or managing a building ~~served by a cable television system~~ or  
19 perform any act ~~which~~ that would directly or indirectly diminish or interfere with the  
20 rights of any tenant to use a master or individual antenna system.

21 C. ~~A cable~~ An operator must have the owner's written consent to affix cable  
22 television system facilities or an over-the-air reception device to a tenant's dwelling.  
23 The owner may refuse the installation of cable television facilities or an over-the-air  
24 reception device for good cause only. Good cause includes, but is not limited to:

- 25 (1) Failure to honor previous written contractual commitments; or  
26 (2) Failure to repair damages caused by ~~a cable~~ an operator during prior  
27 installation.

28 D. In the absence of written consent, the consent required by paragraph C ~~shall be~~  
29 is considered to have been granted to ~~a cable~~ an operator upon ~~his~~ the operator's  
30 delivery to the owner, in person or by certified mail, return receipt requested by the  
31 addressee, the following:

- 32 (1) A copy of this section;  
33 (2) A signed statement that the ~~eable~~ operator will be bound by the terms of this  
34 section to the owner of the property upon which the cable television system  
35 facilities ~~are~~ or over-the-air reception device is to be affixed; and  
36 (3) Notice to the owner in clear, understandable language that describes the  
37 owner's rights and responsibilities.

38 E. If consent is obtained under paragraph D, the ~~eable~~ operator shall present and the  
39 owner and operator shall review, prior to any installation, plans and specifications for

1 the installation, unless waived in writing by the owner. The operator shall abide by  
2 reasonable installation requests by the owner. In any legal action brought pursuant to  
3 this paragraph, the burden of proof relative to the reasonable nature of the owner's  
4 request ~~shall be~~ is on the cable operator. The cable operator shall inspect the premises  
5 with the owner after installations to ensure conformance with the plans and  
6 specifications. The cable operator ~~shall be~~ is responsible for maintenance of any  
7 equipment installed on the owner's premises and ~~shall be~~ is entitled to reasonable  
8 access for that maintenance. Unless waived in writing by the owner, the cable  
9 operator, prior to any installation, shall provide the owner with a certificate of  
10 insurance covering all the employees or agents of the installer or cable operator, as  
11 well as all equipment of the cable operator, and must indemnify the owner from all  
12 liability arising from the operator's installation, maintenance and operation of cable  
13 television facilities or an over-the-air reception device.

14 F. If consent is obtained under paragraph D and the owner of any such real estate  
15 intends to require the payment of any sum in excess of a nominal amount defined in  
16 this subsection as \$1, in exchange for permitting the installation of cable television  
17 system facilities or an over-the-air reception device to the dwelling of the tenant, the  
18 owner shall notify the cable operator by certified mail, return receipt requested,  
19 within 20 days of the date on which the owner is notified that the cable operator  
20 intends to ~~extend~~ install cable television system facilities or an over-the-air reception  
21 device to the dwelling of a tenant of the owner's real estate. Without this notice, it  
22 will be conclusively presumed that the owner will not require payment in excess of  
23 the nominal amount mentioned in this section specified for such connection. If the  
24 owner gives notice, the owner, within 30 days after giving the notice, shall advise the  
25 cable operator in writing of the amount the owner claims as compensation for  
26 affixing cable television system facilities or an over-the-air reception device to ~~his~~ the  
27 owner's real estate. If, within 30 days after receipt of the owner's claim for  
28 compensation, the cable operator has not agreed to accept the owner's demand, the  
29 owner may bring an action in the Superior Court to enforce ~~his~~ the owner's claim for  
30 compensation. If the Superior Court decides in favor of the owner and orders the  
31 cable operator to pay the owner's claim for compensation, the cable operator shall  
32 reimburse the owner for reasonable ~~attorneys~~ attorney's fees incurred by the owner in  
33 litigation of this matter before the Superior Court. The action ~~shall~~ must be brought  
34 within 6 months of the date on which the owner first made demand upon the cable  
35 operator for compensation and not after that date.

36 It ~~shall~~ must be presumed that reasonable compensation ~~shall be~~ is the nominal  
37 amount, but such presumption may be rebutted and overcome by evidence that the  
38 owner has a specific alternative use for the space occupied by cable television system  
39 facilities or equipment or an over-the-air reception device, the loss of which ~~shall~~ will  
40 result in a monetary loss to the owner, or that installation of cable television system  
41 facilities or equipment or an over-the-air reception device upon the multiple dwelling  
42 unit will otherwise substantially interfere with the use and occupancy of the unit or  
43 property to an extent ~~which~~ that causes a decrease in the resale or rental value of the  
44 real estate. In determining the damages to any such real estate injured when no part of  
45 it is being taken, consideration is to be given only to such injury as is special and  
46 peculiar to the real estate and there ~~shall~~ must be deducted from the damages the

1 amount of any benefit to the real estate by reason of the installation of cable  
2 television system facilities or an over-the-air reception device.

3 G. None of the steps enumerated in paragraph F, to claim or enforce a demand for  
4 compensation in excess of the nominal amount, ~~shall~~ may impair or delay the right of  
5 the ~~cable~~ operator to install, maintain or remove cable television system facilities or  
6 an over-the-air reception device at a tenant's dwelling on the real estate. The Superior  
7 Court ~~shall have~~ has original jurisdiction to enforce this paragraph.

8 H. ~~No~~ A person owning, leasing, controlling or managing any multiple dwelling  
9 unit served by a cable television system or an over-the-air reception device may not  
10 discriminate in rental or other charges between tenants who subscribe to these  
11 services and those who do not, or demand or accept payment in any form for the  
12 affixing of cable television system equipment or an over-the-air reception device on  
13 or under the real estate, provided except that the owner of the real estate may require,  
14 in exchange for permitting the installation of cable television system equipment or an  
15 over-the-air reception device within and upon the real estate, reasonable  
16 compensation to be paid by the ~~cable~~ operator. The compensation ~~shall~~ must be  
17 determined in accordance with this subsection.

18 I. As used in this subsection, unless the context otherwise indicates, the following  
19 terms have the following meanings.

20 (1) ~~"Cable television operator," "cable operator" or "operator"~~ "Operator" means  
21 any person, firm or corporation owning, controlling, operating, managing or  
22 leasing a cable television system, satellite system, wireless cable system or any  
23 other system involving the transmission and reception of a signal or any lawful  
24 agent appointed by any one of the persons or entities mentioned in this  
25 subparagraph.

26 (2) "Multiple dwelling unit" means any building or structure ~~which~~ that contains  
27 2 or more apartments or living units.

28 (2-A) "Over-the-air reception device" means a device used for receiving a signal  
29 that is transmitted over the air, including, but not limited to, a satellite dish  
30 apparatus, a television antenna and a wireless cable antenna.

31 (3) "Owner" means the person or persons possessing legal title to real estate or  
32 the lawful agent appointed by an owner.

33 (4) "Tenant" means one who has the temporary use and occupation of real  
34 property owned by another person.

35 **Sec. 2. Maine Revised Statutes headnote amended; revision clause.** In the  
36 Maine Revised Statutes, Title 14, chapter 710-B, in the chapter headnote, the words  
37 "Cable Television Installation" are amended to read "Cable Television and Over-the-air  
38 Reception Device Installation" and the Revisor of Statutes shall implement this revision  
39 when updating, publishing or republishing the statutes.

1

## SUMMARY

2       This bill adds the installation of over-the-air reception devices such as satellite dishes,  
3 television antennae and wireless cable antennae to the laws governing the installation of  
4 cable television equipment in apartment buildings.