

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1950

6
7 S.P. 776

In Senate, January 30, 1986

8 Approved for introduction by a majority of the Legislative Council
9 pursuant to Joint Rule 26.

Reference to the Committee on Utilities suggested and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Violette of Aroostook.

11 Cosponsored by Representative Clark of Millinocket, Senator Andrews of
Cumberland and Representative Paradis of Old Town.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT Defining the Rights of Landlords,
18 Tenants and Cable Television
19 Operators.
20

21 Be it enacted by the People of the State of Maine as
22 follows:

23 35 MRSA §2492 is repealed and the following en-
24 acted in its place:

25 §2492. Affixing wires and structures; consent of
26 building owner required

27 1. Owner consent. Every company, association or
28 person maintaining or operating a telephone or other
29 electrical line, or anyone who in any manner affixes
30 or causes to be affixed to the buildings or building
31 of another, any structure, fixture, wire or other ap-
32 paratus or enters upon the property of another for
33 the purpose of affixing any structure, fixture, wire
34 or other apparatus, in either case without the con-
35 sent of the owner or lawful agent of the owner of

1 that property shall, on complaint of that owner or
2 his tenant, be punished by a fine of not more than
3 \$100.

4 2. Cable television services. A tenant in a
5 multiple dwelling unit may subscribe to cable televi-
6 sion services, subject to the following provisions.

7 A. A cable television operator who affixes, or
8 causes to be affixed, cable television system fa-
9 ilities to the dwelling of a tenant shall do so
10 at no cost to the landlord of that dwelling,
11 shall indemnify the landlord of that dwelling for
12 any damage arising out of these actions and shall
13 not interfere with the safety, functioning, ap-
14 pearance or use of that dwelling.

15 B. A landlord's consent to access, required by
16 subsection 1, shall be deemed to have been
17 granted to a cable television operator upon the
18 delivery of a copy of this section and a signed
19 statement that the cable operator agrees to be
20 bound by the terms of this subsection, to the
21 owner or lawful agent of the property upon which
22 the cable television facilities are to be af-
23 fixed. For purposes of this subsection, delivery
24 shall be made in person or by certified mail, re-
25 turn receipt requested.

26 C. In any instance in which the owner of any
27 real estate intends to require the payment of any
28 sum in excess of \$1 in exchange for permitting
29 the installation of a cable television system,
30 the owner shall serve written notice of that
31 amount upon the cable television operator by cer-
32 tified mail, return receipt requested, within 20
33 days of the date when the owner is notified that
34 the cable television operator intends to con-
35 struct or install cable television facilities on
36 his real estate. Unless timely notice, as pro-
37 vided in this section, is given by the owner to
38 the cable television operator, it will be conclu-
39 sively presumed that the owner does not claim or
40 intend to require the payment of a sum in excess
41 of a one-time payment of \$1 in exchange and as
42 compensation for permitting the installation of
43 cable television facilities.

1 D. Any owner of real estate described in this
2 subsection, who has given timely notice to the
3 operator, as described in this subsection, may
4 assert a claim for reasonable compensation in ex-
5 cess of \$1 for permitting the installation of ca-
6 ble television facilities within and upon that
7 real estate or beneath or over that real estate.
8 Within 30 days after notice has been given by the
9 owner of his intent to demand additional compen-
10 sation in accordance with this section, the owner
11 shall advise the cable television operator in
12 writing of the amount claimed as reasonable com-
13 pensation. If, within 60 days after the receipt
14 of the owner's claim, the cable television opera-
15 tor has not agreed to pay the amount claimed or
16 some other amount acceptable to the owner, the
17 owner may bring an action before the Superior
18 Court to enforce that claim for compensation.
19 Any such action shall be brought within 6 months
20 of the receipt of the notice by the cable opera-
21 tor, informing the cable television operator of
22 the amount claimed. In any action brought to en-
23 force this right, it shall be presumed that rea-
24 sonable compensation shall be \$1, but this pre-
25 sumption may be rebutted and overcome by proof
26 that the owner has a specific alternative use for
27 the space occupied by the cable television facil-
28 ities or equipment, the loss of which will result
29 in a monetary loss to the owner or that installa-
30 tion of cable television facilities or equipment
31 within and upon the real estate or beneath or
32 over the real estate will otherwise substantially
33 interfere with the use and occupancy of the real
34 estate to an extent which causes a decrease in
35 the resale or rental value of the real estate.
36 In determining the damages to any such real es-
37 tate injured, when no part of it is being taken,
38 regard is to be given only to such injury as is
39 special and peculiar to the real estate by reason
40 of the installation of cable television facili-
41 ties.

42 E. Neither the giving of a notice as described
43 in subsection 2, paragraph C; the assertion of a
44 specific claim; nor the initiation of legal ac-
45 tion to enforce this claim, may delay or impair
46 the right of the operator to construct, install

1 or remove cable facilities and maintain cable
2 television services within, upon, beneath or over
3 real estate. The Superior Court shall have origi-
4 nal jurisdiction to enforce this paragraph.

5 F. No cable television operator may enter into
6 any agreement with persons owning, leasing, con-
7 trolling or managing buildings served by a cable
8 television system, or perform any act that would
9 directly or indirectly diminish or interfere with
10 existing rights of any tenant or other occupant
11 of such a building to use a master or individual
12 antenna equipment.

13 G. No person owning, leasing, controlling or
14 managing any multiple dwelling unit served by a
15 cable television system may discriminate in rental
16 charges or other charges between tenants who
17 do or do not subscribe to cable services or de-
18 mand or accept payment in any form, for the af-
19 fixing of cable television system equipment on or
20 under the real estate; provided that the owner of
21 the real estate may require, in exchange for per-
22 mitting the installing of cable television system
23 equipment within and upon the real estate, rea-
24 sonable compensation to be paid by the cable op-
25 erator in accordance with this subsection.

26 H. No person owning, leasing, controlling or
27 managing any multiple dwelling unit may prohibit
28 or otherwise prevent the cable television opera-
29 tor or its agents, servants, employees or those
30 acting upon the real estate for the purpose of,
31 and in connection with, the construction, instal-
32 lation, servicing or removal of the cable televi-
33 sion system nor may the person owning, leasing,
34 controlling or managing any unit or units served
35 by a cable television operator prevent the cable
36 television operator or its agents, servants, em-
37 ployees or those acting under the authority of
38 the cable television operator from constructing
39 or installing upon, beneath or over the real es-
40 tate, including any buildings or other structures
41 located on the real estate, hardware cable equip-
42 ment or materials utilized by the cable televi-
43 sion operator in the construction, installation
44 or servicing of the cable television system.

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STATEMENT OF FACT

2 The purpose of this bill is to establish guide-
3 lines and procedures by which cable television ser-
4 vices are supplied to a tenant.

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