

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 670

H.P. 500 House of Representatives, March 6, 1987  
Reference to the Committee on Business Legislation  
suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative VOSE of Eastport.

Cosponsored by Senator CLARK of Cumberland,  
Representatives PARADIS of Augusta and WEBSTER of Cape  
Elizabeth.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Provide Cable Television Access to  
2 Apartment Dwellings and Mobile Homes.  
3

4 Be it enacted by the People of the State of Maine as  
5 follows:

6 35 MRSA §2492 is repealed and the following en-  
7 acted in its place:

8 §2492. Affixing wires and structures; consent of  
9 building owner required; cable television

10 1. Owner consent. Every company, association or  
11 person maintaining or operating a telephone or other  
12 electrical line, or anyone who in any manner affixes  
13 or causes to be affixed to the buildings or building  
14 of another any structure, fixture, wire or other ap-  
15 paratus or enters upon the property of another for

1 the purpose of affixing any structure, fixture, wire  
2 or other apparatus, in either case without the con-  
3 sent of the owner or lawful agent of the owner of  
4 that property, shall, on complaint of that owner or  
5 his tenant, be punished by a fine of not more than  
6 \$100.

7 2. Cable television installation. A tenant in a  
8 multiple dwelling unit or a mobile home park may sub-  
9 scribe to cable television service, subject to the  
10 following provisions.

11 A. A cable operator who affixes or causes to be  
12 affixed cable television facilities to the dwell-  
13 ing of a unit shall do so at no cost to the owner  
14 of the dwelling, indemnify the owner immediately  
15 for damages, if any, arising from the installa-  
16 tion, or the continued operation of the installa-  
17 tion, or both; and shall not interfere with the  
18 safety, functioning, appearance or use of the  
19 dwelling, nor interfere with the rules of the  
20 owner dealing with the day-to-day operations of  
21 the property, including the owner's reasonable  
22 access rules for soliciting business. Nothing in  
23 this section may prohibit an owner from contract-  
24 ing with the cable operator for work in addition  
25 to standard installation.

26 B. No cable operator may enter into any agree-  
27 ment with persons owning, leasing, controlling or  
28 managing a building served by a cable television  
29 system or perform any act which would directly or  
30 indirectly diminish or interfere with the rights  
31 of any tenant to use a master or individual an-  
32 tenna system.

33 C. A cable operator must have the owner's writ-  
34 ten consent to affix cable television system fa-  
35 ilities to a tenant's dwelling. The owner may  
36 refuse the installation of cable television fa-  
37 ilities for good cause only. Good cause in-  
38 cludes, but is not limited to:

39 (1) Failure to honor previous written  
40 contractual commitments; or

41 (2) Failure to repair damages caused by a  
42 cable operator during prior installation.

1           D. In the absence of written consent, the consent  
2           required by paragraph C shall be considered  
3           to have been granted to a cable operator upon his  
4           delivery to the owner, in person or by certified  
5           mail, return receipt requested by the addressee,  
6           of a copy of this section and a signed statement  
7           that the cable operator will be bound by the  
8           terms of this section to the owner of the proper-  
9           ty upon which the cable television system facili-  
10           ties are to be affixed.

11           E. If consent is obtained under paragraph D, the  
12           cable operator shall present and the owner and  
13           operator shall review, prior to any installation,  
14           plans and specifications for the installation,  
15           unless waived in writing by the owner. The opera-  
16           tor shall abide by reasonable installation re-  
17           quests by the owner. In any legal action brought  
18           pursuant to this paragraph, the burden of proof  
19           relative to the reasonable nature of the owner's  
20           request shall be on the cable operator. The cable  
21           operator shall inspect the premises with the own-  
22           er after installations to ensure conformance with  
23           the plans and specifications. The cable operator  
24           shall be responsible for maintenance of any  
25           equipment installed on the owner's premises and  
26           shall be entitled to reasonable access for that  
27           maintenance. Unless waived in writing by the own-  
28           er, the cable operator, prior to any installa-  
29           tion, shall provide the owner with a certificate  
30           of insurance covering all the employees or agents  
31           of the installer or cable operator, as well as  
32           all equipment of the cable operator, and must in-  
33           demnify the owner from all liability arising from  
34           the operator's installation, maintenance and op-  
35           eration of cable television facilities.

36           F. If consent is obtained under paragraph D and  
37           the owner of any such real estate intends to re-  
38           quire the payment of any sum in excess of a nomi-  
39           nal amount defined in this subsection as \$1, in  
40           exchange for permitting the installation of cable  
41           television system facilities to the dwelling of a  
42           tenant, the owner shall notify the cable operator  
43           by certified mail, return receipt requested,  
44           within 20 days of the date on which the owner is  
45           notified that the cable operator intends to ex-

1 tend cable television system facilities to the  
2 dwelling of a tenant of the owner's real estate.  
3 Without this notice, it will be conclusively pre-  
4 sumed that the owner will not require payment in  
5 excess of the nominal amount mentioned in this  
6 section specified for such connection. If the  
7 owner gives notice, the owner, within 30 days af-  
8 ter giving the notice, shall advise the cable op-  
9 erator in writing of the amount the owner claims  
10 as compensation for affixing cable television  
11 system facilities to his real estate. If, within  
12 30 days after receipt of the owner's claim for  
13 compensation, the cable operator has not agreed  
14 to accept the owner's demand, the owner may bring  
15 an action in the Superior Court to enforce his  
16 claim for compensation. If the Superior Court de-  
17 cedes in favor of the owner and orders the cable  
18 operator to pay the owner's claim for compensa-  
19 tion, the cable operator shall reimburse the own-  
20 er for reasonable attorneys fees incurred by the  
21 owner in litigation of this matter before the Su-  
22 perior Court. The action shall be brought within  
23 6 months of the date on which the owner first  
24 made demand upon the cable operator for compensa-  
25 tion and not after that date.

26 It shall be presumed that reasonable compensation  
27 shall be the nominal amount, but such presumption  
28 may be rebutted and overcome by evidence that the  
29 owner has a specific alternative use for the  
30 space occupied by cable television system facili-  
31 ties or equipment, the loss of which shall result  
32 in a monetary loss to the owner, or that instal-  
33 lation of cable television system facilities or  
34 equipment upon the multiple dwelling unit or mo-  
35 bile home will otherwise substantially interfere  
36 with the use and occupancy of the unit or proper-  
37 ty to an extent which causes a decrease in the  
38 resale or rental value of the real estate. In de-  
39 termining the damages to any such real estate in-  
40 jured when no part of it is being taken, consid-  
41 eration is to be given only to such injury as is  
42 special and peculiar to the real estate and there  
43 shall be deducted therefrom the amount of any  
44 benefit to the real estate by reason of the in-  
45 stallation of cable television system facilities.

1 G. None of the steps enumerated in paragraph F,  
2 to claim or enforce a demand for compensation in  
3 excess of the nominal amount, shall impair or de-  
4 lay the right of the cable operator to install,  
5 maintain or remove cable television system facil-  
6 ities at a tenant's dwelling on the real estate.  
7 The Superior Court shall have original jurisdic-  
8 tion to enforce this paragraph.

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

23 I. As used in this subsection, unless the con-  
24 text otherwise indicates, the following terms  
25 have the following meanings.

26 (1) "Cable television operator," "cable op-  
27 erator" or "operator" mean any person, firm  
28 or corporation owning, controlling, operat-  
29 ing, managing or leasing a cable system or  
30 any lawful agent appointed by any one of the  
31 persons or entities mentioned in this sub-  
32 paragraph.

33 (2) "Owner" means the person or persons  
34 possessing legal title to real estate, or  
35 the lawful agent appointed by an owner.

36 (3) "Tenant" means one who has the tempo-  
37 rary use and occupation of real property  
38 owned by another person or a mobile home  
39 owner who rents a parcel of land in a mobile  
40 home park.

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STATEMENT OF FACT

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This bill prescribes the rights and responsibilities of apartment owners and tenants, cable television operators and mobile home owners with respect to contracting with cable television operators for cable television services.

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