

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 500, L.D. 670)  
(New Title)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1701

H.P. 1247 House of Representatives, May 29, 1987  
Reported by Representative WILLEY from the Committee on  
Utilities and printed under Joint Rule 2.

EDWIN H. PERT, Clerk.

Original bill sponsored 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.  
3

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

6 14 MRSA c. 710-B is enacted to read:

7 CHAPTER 710-B

8 CABLE TELEVISION INSTALLATION

9 §6041. Installation; consent of building owner re-  
10 quired

1        1. Cable television installation. A tenant in a  
2 multiple dwelling unit may subscribe to cable televi-  
3 sion service, subject to the following provisions.

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

16        Nothing in this section may prohibit an owner  
17 from contracting with the cable operator for work  
18 in addition to standard installation.

19        B. No cable operator may enter into any agree-  
20 ment with persons owning, leasing, controlling or  
21 managing a building served by a cable television  
22 system or perform any act which would directly or  
23 indirectly diminish or interfere with the rights  
24 of any tenant to use a master or individual an-  
25 tenna system.

26        C. A cable operator must have the owner's writ-  
27 ten consent to affix cable television system fa-  
28 ilities to a tenant's dwelling. The owner may  
29 refuse the installation of cable television fa-  
30 ilities for good cause only. Good cause in-  
31 cludes, but is not limited to:

32                (1) Failure to honor previous written con-  
33 tractual commitments; or

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

36        D. In the absence of written consent, the con-  
37 sent required by paragraph C shall be considered  
38 to have been granted to a cable operator upon his  
39 delivery to the owner, in person or by certified  
40 mail, return receipt requested by the addressee,  
41 the following:

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(1) A copy of this section;

(2) A signed statement that the cable operator will be bound by the terms of this section to the owner of the property upon which the cable television system facilities are to be affixed; and

(3) Notice to the owner in clear, understandable language that describes the owner's rights and responsibilities.

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E. If consent is obtained under paragraph D, the cable operator shall present and the owner and operator shall review, prior to any installation, plans and specifications for the installation, unless waived in writing by the owner. The operator shall abide by reasonable installation requests by the owner. In any legal action brought pursuant to this paragraph, the burden of proof relative to the reasonable nature of the owner's request shall be on the cable operator. The cable operator shall inspect the premises with the owner after installations to ensure conformance with the plans and specifications. The cable operator shall be responsible for maintenance of any equipment installed on the owner's premises and shall be entitled to reasonable access for that maintenance. Unless waived in writing by the owner, the cable operator, prior to any installation, shall provide the owner with a certificate of insurance covering all the employees or agents of the installer or cable operator, as well as all equipment of the cable operator, and must indemnify the owner from all liability arising from the operator's installation, maintenance and operation of cable television facilities.

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F. If consent is obtained under paragraph D and the owner of any such real estate intends to require the payment of any sum in excess of a nominal amount defined in this subsection as \$1, in exchange for permitting the installation of cable television system facilities to the dwelling of the tenant, the owner shall notify the cable operator by certified mail, return receipt requested, within 20 days of the date on which the

1 owner is notified that the cable operator intends  
2 to extend cable television system facilities to  
3 the dwelling of a tenant of the owner's real es-  
4 tate. Without this notice, it will be conclusively  
5 presumed that the owner will not require pay-  
6 ment in excess of the nominal amount mentioned in  
7 this section specified for such connection. If  
8 the owner gives notice, the owner, within 30 days  
9 after giving the notice, shall advise the cable  
10 operator in writing of the amount the owner  
11 claims as compensation for affixing cable televi-  
12 sion system facilities to his real estate. If,  
13 within 30 days after receipt of the owner's claim  
14 for compensation, the cable operator has not  
15 agreed to accept the owner's demand, the owner  
16 may bring an action in the Superior Court to en-  
17 force his claim for compensation. If the Superior  
18 Court decides in favor of the owner and orders  
19 the cable operator to pay the owner's claim for  
20 compensation, the cable operator shall reimburse  
21 the owner for reasonable attorneys fees incurred  
22 by the owner in litigation of this matter before  
23 the Superior Court. The action shall be brought  
24 within 6 months of the date on which the owner  
25 first made demand upon the cable operator for  
26 compensation and not after that date.

27 It shall be presumed that reasonable compensation  
28 shall be the nominal amount, but such presumption  
29 may be rebutted and overcome by evidence that the  
30 owner has a specific alternative use for the  
31 space occupied by cable television system facili-  
32 ties or equipment, the loss of which shall result  
33 in a monetary loss to the owner, or that instal-  
34 lation of cable television system facilities or  
35 equipment upon the multiple dwelling unit will  
36 otherwise substantially interfere with the use  
37 and occupancy of the unit or property to an ex-  
38 tent which causes a decrease in the resale or  
39 rental value of the real estate. In determining  
40 the damages to any such real estate injured when  
41 no part of it is being taken, consideration is to  
42 be given only to such injury as is special and  
43 peculiar to the real estate and there shall be  
44 deducted from the damages the amount of any bene-  
45 fit to the real estate by reason of the installa-  
46 tion 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 served by a  
11 cable television system may discriminate in rental  
12 or other charges between tenants who subscribe  
13 to these services and those who do not, or demand  
14 or accept payment in any form for the affixing of  
15 cable television system equipment on or under the  
16 real estate, provided that the owner of the real  
17 estate may require, in exchange for permitting  
18 the installation of cable television system  
19 equipment within and upon the real estate, rea-  
20 sonable compensation to be paid by the cable op-  
21 erator. The compensation shall be determined in  
22 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" means 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) "Multiple dwelling unit" means any  
34 building or structure which contains 2 or  
35 more apartments or living units.

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

39 (4) "Tenant" means one who has the tempo-  
40 rary use and occupation of real property  
41 owned by another person.

1 STATEMENT OF FACT

2 This new draft removes all references to mobile  
3 homes, deleting mobile home owners from the scope of  
4 the new draft.

5 The new draft also:

6 1. Enacts laws in the Maine Revised Statutes,  
7 Title 14, rather than Title 35;

8 2. Includes a definition of "multiple dwelling  
9 unit;" and

10 3. Includes a requirement for notice to the own-  
11 er that describes the owner's rights and responsibil-  
12 ities.

13 2853052287