



March 19, 1999

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# ENGROSSED HOUSE BILL No. 1601

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DIGEST OF HB 1601 (Updated March 16, 1999 1:47 pm - DI 75)

**Citations Affected:** IC 32-7.

**Synopsis:** Cable operator access to multiple dwelling units. Gives a tenant the right to receive cable service from a cable operator serving a multiple dwelling unit. (Defines multiple dwelling unit as a structure consisting of 15 or more dwelling units that are used, or designed to be used, as individual residences.) Prohibits and makes unenforceable a restriction, contract provision, or lease provision that impairs the installation, maintenance, or use of an antenna within a tenant's (Continued next page)

**Effective:** July 1, 1999.

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**Crooks, Lutz J, Adams T,  
Whetstone**

(SENATE SPONSORS — WEATHERWAX, SIMPSON)

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January 21, 1999, read first time and referred to Committee on Commerce and Economic Development.

February 10, 1999, amended, reported — Do Pass.

February 24, 1999, read second time, amended, ordered engrossed.

February 25, 1999, engrossed. Read third time, passed. Yeas 62, nays 33.

SENATE ACTION

March 8, 1999, read first time and referred to Committee on Commerce and Consumer Affairs.

March 18, 1999, reported favorably — Do Pass.

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EH 1601—LS 8031/DI 101+



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individual unit if the antenna: (1) is designed to receive direct broadcast satellite service and is one meter or less in diameter; (2) is designed to receive video programming services via multipoint distribution services and is one meter or less in diameter or diagonal measurement; or (3) is designed to receive television broadcast signals. Provides that a restriction that is otherwise prohibited is enforceable if it is not more burdensome than necessary to: (1) accomplish a clearly defined safety objective; or (2) preserve an historic building, structure, or location listed or eligible for listing in the National Register of Historic Places. Provides that a restriction that is otherwise prohibited is enforceable if it: (1) prohibits a tenant from drilling holes in walls or piercing the roof during the installation of an antenna; (2) requires wiring to enter a unit through a window; or (3) requires that the installation of an antenna be accomplished through some other non-invasive means in order to prevent damage to the unit beyond usual wear and tear.

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March 19, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## ENGROSSED HOUSE BILL No. 1601

A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 32-7-7 IS ADDED TO THE INDIANA CODE AS  
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 1999]:

4 **Chapter 7. Right of Tenant to Receive Cable Service**  
5 **Sec. 1. As used in this chapter, "cable operator" means the**  
6 **owner or operator of a cable television system that holds a valid**  
7 **franchise from the municipality or county where a multiple**  
8 **dwelling unit is located.**

9 **Sec. 2. As used in this chapter, "cable service" has the meaning**  
10 **set forth in 47 U.S.C. 522(6).**

11 **Sec. 3. As used in this chapter, "landlord" means the owner,**  
12 **lessor, or sublessor of a multiple dwelling unit or the property of**  
13 **which the unit is a part or a person authorized to exercise any**  
14 **aspect of the management of the premises, including a person who,**  
15 **directly or indirectly, acts as a rental agent, or receives rent or a**

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1 part of the rent, other than as a bona fide purchaser.

2 Sec. 4. As used in this chapter, "multiple dwelling unit" means  
3 a structure consisting of fifteen (15) or more units that are:

4 (1) intended or designed to be owned or leased for occupation  
5 as individual homes or residences; or

6 (2) actually owned or leased for occupation as individual  
7 homes or residences.

8 The term includes an apartment, a condominium, or a mobile  
9 home park.

10 Sec. 5. As used in this chapter, "person" means an individual, a  
11 corporation, an association, a partnership, a governmental entity,  
12 a trust, an estate, or any other legal or commercial entity.

13 Sec. 6. As used in this chapter, "tenant" means an individual  
14 who occupies a unit in a multiple dwelling unit for residential  
15 purposes.

16 Sec. 7. As used in this chapter, "unit" refers to an individual  
17 dwelling within a multiple dwelling unit. The term includes a  
18 balcony, railing, terrace, patio, yard, garden, or other structure or  
19 area within a tenant's exclusive leasehold. The term does not  
20 include common areas that are not within a tenant's exclusive  
21 leasehold.

22 Sec. 8. This chapter does not apply to a multiple dwelling unit  
23 if the landlord for the multiple dwelling unit and a cable operator  
24 have entered into a written agreement that explicitly grants the  
25 landlord the right to terminate the cable operator's right of access  
26 to the multiple dwelling unit.

27 Sec. 9. A landlord may not prevent a tenant from receiving cable  
28 service from a cable operator that:

29 (1) was providing cable service to the multiple dwelling unit  
30 on January 1, 1999; or

31 (2) begins providing cable service to the multiple dwelling unit  
32 after January 1, 1999.

33 Sec. 10. (a) Except as provided in section 11 of this chapter, a  
34 restriction, contract provision, or lease provision concerning a unit  
35 within a multiple dwelling unit may not impair the installation,  
36 maintenance, or use of any of the following within the unit:

37 (1) An antenna that:

38 (A) is designed to receive direct broadcast satellite service,  
39 including direct to home satellite services; and

40 (B) is one (1) meter or less in diameter.

41 (2) An antenna that:

42 (A) is designed to receive video programming services via

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1 multiple point distribution services, including multiple  
 2 channel, multiple point distribution services, instructional  
 3 television fixed services, and local multiple point  
 4 distribution services; and

5 (B) is one (1) meter or less in diameter or diagonal  
 6 measurement.

7 (3) An antenna that is designed to receive television broadcast  
 8 signals.

9 (b) A restriction, contract provision, or lease provision that  
 10 impairs the installation, maintenance, or use of an antenna  
 11 described in subsection (a) is unenforceable to the extent that it  
 12 impairs the installation, maintenance, or use of the antenna within  
 13 a unit.

14 Sec. 11. (a) A restriction, contract provision, or lease provision  
 15 otherwise prohibited under section 10 of this chapter is enforceable  
 16 if:

17 (1) the restriction or provision:

18 (A) is necessary to accomplish a clearly defined safety  
 19 objective that is described as the purpose of the restriction  
 20 or provision in a document that is readily available to  
 21 antenna users; and

22 (B) is applied to the extent practicable in a  
 23 nondiscriminatory manner to other appurtenances,  
 24 devices, or fixtures that are comparable in size, weight, and  
 25 appearance to the antenna;

26 (2) the restriction or provision:

27 (A) is necessary to preserve an historic building, structure,  
 28 or location listed or eligible for listing in the National  
 29 Register of Historic Places, as set forth in the National  
 30 Historic Preservation Act of 1966, as amended, 16 U.S.C.  
 31 470(a); and

32 (B) imposes no greater restrictions on the antenna than are  
 33 imposed on the installation, maintenance, or use of other  
 34 modern appurtenances, devices, or fixtures that are  
 35 comparable in size, weight, and appearance to the antenna;  
 36 or

37 (3) the restriction or provision:

38 (A) prohibits a tenant from drilling holes in walls or  
 39 piercing the roof during the installation of an antenna,  
 40 requires wiring to enter a unit through a window, or  
 41 requires that the installation of an antenna be  
 42 accomplished through some other non-invasive means in

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1                   **order to prevent damage to the unit beyond the usual wear**  
2                   **and tear; and**  
3                   **(B) imposes no greater restrictions on the installation of an**  
4                   **antenna than are imposed on the installation of other**  
5                   **modern appurtenances, devices, or fixtures that are**  
6                   **comparable in size, weight, and appearance to the antenna.**  
7                   **(b) A restriction, contract provision, or lease provision that is**  
8                   **enforceable under subsection (a) may not be more burdensome to**  
9                   **affected antenna users than is necessary to achieve the objectives**  
10                   **described in subsection (a).**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1601, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 3, delete "five (5)" and insert "**fifteen (15)**".

Page 2, line 3, delete "dwelling".

Page 2, delete lines 10 through 12.

Page 2, line 13, delete "6" and insert "5".

Page 2, between lines 15 and 16, begin a new paragraph and insert:

**"Sec. 6. As used in this chapter, "tenant" means an individual who occupies a unit in a multiple dwelling unit for residential purposes.**

**Sec. 7. As used in this chapter, "unit" refers to an individual dwelling within a multiple dwelling unit. The term includes a balcony, railing, terrace, patio, yard, garden, or other structure or area within a tenant's individual leasehold. The term does not include common areas that are not within a tenant's individual leasehold."**

Page 2, line 16, delete "7" and insert "8".

Page 2, line 21, delete "8" and insert "9".

Page 2, delete lines 27 through 31.

Page 2, line 34, before "multiple" insert "**unit within a**".

Page 2, line 35, after "following" insert "**within the unit**".

Page 3, line 11, after "antenna" insert "**within a unit**".

and when so amended that said bill do pass.

(Reference is to HB 1601 as introduced.)

BOTTORFF, Chair

Committee Vote: yeas 11, nays 3.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1601 be amended to read as follows:

Page 2, line 19, delete "individual" and insert "**exclusive**".

Page 2, line 20, delete "individual" and insert "**exclusive**".

Page 3, line 25, delete "or".

Page 3, line 35, delete "." and insert "**; or**".

Page 3, between lines 35 and 36, begin a new line block indented and insert:

**"(3) the restriction or provision:**

**(A) prohibits a tenant from drilling holes in walls or piercing the roof during the installation of an antenna, requires wiring to enter a unit through a window, or requires that the installation of an antenna be accomplished through some other non-invasive means in order to prevent damage to the unit beyond the usual wear and tear; and**

**(B) imposes no greater restrictions on the installation of an antenna than are imposed on the installation of other modern appurtenances, devices, or fixtures that are comparable in size, weight, and appearance to the antenna."**

(Reference is to HB 1601 as printed February 11, 1999.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred House Bill No. 1601, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1601 as reprinted February 25, 1999.)

MILLS, Chairperson

Committee Vote: Yeas 7, Nays 3.

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