



Reprinted
April 8, 1999

ENGROSSED HOUSE BILL No. 1601

DIGEST OF HB 1601 (Updated April 7, 1999 3:02 pm - DI 101)

Citations Affected: IC 32-7.

Synopsis: Access to wiring owned by the existing operator. 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 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
(Continued next page)

Effective: July 1, 1999.

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

(SENATE SPONSORS — WEATHERWAX, SIMPSON)

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.

April 7, 1999, read second time, amended, ordered engrossed.

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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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April 8, 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 or a person that provides multichannel video programming have
25 entered into a written agreement that explicitly grants the landlord
26 the right to terminate the cable operator's or a person that
27 provides multichannel video programming right of access to the
28 multiple dwelling unit.

29 Sec. 9. (a) A tenant may receive cable service from a cable
30 operator that:

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

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

35 (b) The tenant has a right at any time to change cable service
36 providers that have been invited into the multiple dwelling unit by
37 the landlord. Upon receipt of a written request of change of service
38 provided by the tenant of a multiple dwelling unit to the existing
39 provider of cable service, the existing cable service provider to a
40 multiple dwelling unit shall provide access to any other provider of
41 cable services within thirty days of the receipt of the tenant's
42 request to change providers. If a written request of a change of



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1 service is provided by the tenant of the multiple dwelling unit to the
 2 existing cable operator, the existing cable operator may not
 3 interfere with the other providers' right to provide service to the
 4 requesting tenant.

5 (c) Any provider which replaces the existing cable operator
 6 under the requirements of subsection (a) shall pay to the existing
 7 cable operator a reasonable fee for access and a one time fee for
 8 each tenant access over wiring owned by the existing cable
 9 operator equal to the fair market value of the wiring, cost of
 10 installion of the wiring to the multiple dwelling unit, and
 11 equipment and installation costs of the on-site cable box for the
 12 multiple dwelling unit.

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

17 (1) An antenna that:

- 18 (A) is designed to receive direct broadcast satellite service,
 19 including direct to home satellite services; and
 20 (B) is one (1) meter or less in diameter.

21 (2) An antenna that:

- 22 (A) is designed to receive video programming services via
 23 multiple point distribution services, including multiple
 24 channel, multiple point distribution services, instructional
 25 television fixed services, and local multiple point
 26 distribution services; and
 27 (B) is one (1) meter or less in diameter or diagonal
 28 measurement.

29 (3) An antenna that is designed to receive television broadcast
 30 signals.

31 (b) A restriction, contract provision, or lease provision that
 32 impairs the installation, maintenance, or use of an antenna
 33 described in subsection (a) is unenforceable to the extent that it
 34 impairs the installation, maintenance, or use of the antenna within
 35 a unit.

36 **Sec. 11. (a) A restriction, contract provision, or lease provision**
 37 **otherwise prohibited under section 10 of this chapter is enforceable**
 38 **if:**

39 (1) the restriction or provision:

- 40 (A) is necessary to accomplish a clearly defined safety
 41 objective that is described as the purpose of the restriction
 42 or provision in a document that is readily available to



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antenna users; and

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

(2) the restriction or provision:

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

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

or

(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.

(b) A restriction, contract provision, or lease provision that is enforceable under subsection (a) may not be more burdensome to affected antenna users than is necessary to achieve the objectives 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 othermodern 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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SENATE MOTION

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

Page 2, line 23, after "operator" insert "**or a person that provides multichannel video programming**".

Page 2, line 25, after "operator's" insert "**or a person that provides multichannel video programming**".

Page 2, delete line 27, begin a new paragraph and insert:

"Sec. 9. (a) A tenant may receive cable".

Page 2, between lines 32 and 33, begin a new paragraph and insert:

"(b) The tenant has a right at any time to change cable service providers that have been invited into the multiple dwelling unit by the landlord. Upon receipt of a written request of change of service provided by the tenant of a multiple dwelling unit to the existing provider of cable service, the existing cable service provider to a multiple dwelling unit shall provide access to any other provider of cable services within thirty days of the receipt of the tenant's request to change providers. If a written request of a change of service is provided by the tenant of the multiple dwelling unit to the existing cable operator, the existing cable operator may not interfere with the other providers' right to provide service to the requesting tenant.

(c) Any provider which replaces the existing cable operator under the requirements of subsection (a) shall pay to the existing cable operator a reasonable fee for access and a one time fee for each tenant access over wiring owned by the existing cable operator equal to the fair market value of the wiring, cost of installation of the wiring to the multiple dwelling unit, and equipment and installation costs of the on-site cable box for the multiple dwelling unit."

(Reference is to Engrossed House Bill 1601 as printed March 19, 1999.)

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