CHAPTER 710-B

CABLE TELEVISION AND OVER-THE-AIR RECEPTION DEVICE INSTALLATION

§6041. Installation; consent of building owner required

1. Installation. A tenant in a multiple dwelling unit may subscribe to cable television service or use an over-the-air reception device, subject to the following provisions.

A. An operator who affixes or causes to be affixed cable television facilities or an over-the-air reception device to the dwelling of a tenant shall do so at no cost to the owner of the dwelling; shall indemnify the owner immediately for damages, if any, arising from the installation or the continued operation of the installation, or both; and may not interfere with the safety, functioning, appearance or use of the dwelling, nor interfere with the rules of the owner dealing with the day-to-day operations of the property, including the owner's reasonable access rules for soliciting business.

Nothing in this section may prohibit an owner from contracting with the operator for work in addition to standard installation. [PL 2007, c. 57, §1 (AMD).]

B. An operator may not enter into any agreement with persons owning, leasing, controlling or managing a building or perform any act that would directly or indirectly diminish or interfere with the rights of any tenant to use a master or individual antenna system. [PL 2007, c. 57, §1 (AMD).]

C. An operator must have the owner's written consent to affix cable television system facilities or an over-the-air reception device to a tenant's dwelling. The owner may refuse the installation of cable television facilities or an over-the-air reception device for good cause only. Good cause includes, but is not limited to:

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

(2) Failure to repair damages caused by an operator during prior installation. [PL 2007, c. 57, §1 (AMD).]

D. In the absence of written consent, the consent required by paragraph C is considered to have been granted to an operator upon the operator's delivery to the owner, in person or by certified mail, return receipt requested by the addressee, the following:

(1) A copy of this section;

(2) A signed statement that the operator will be bound by the terms of this section to the owner of the property upon which the cable television system facilities or over-the-air reception device is to be affixed; and

(3) Notice to the owner in clear, understandable language that describes the owner's rights and responsibilities. [PL 2007, c. 57, §1 (AMD).]

E. If consent is obtained under paragraph D, the 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 is on the operator. The operator shall inspect the premises with the owner after installations to ensure conformance with the plans and specifications. The operator is responsible for maintenance of any equipment installed on the owner's premises and is entitled to reasonable access for that maintenance. Unless waived in writing by the owner, the operator, prior to any installation, shall provide the owner with a certificate of insurance covering all the employees or agents of the installer or operator, as well as all equipment of the operator, and must indemnify

the owner from all liability arising from the operator's installation, maintenance and operation of cable television facilities or an over-the-air reception device. [PL 2007, c. 57, §1 (AMD).]

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 or an over-the-air reception device to the dwelling of the tenant, the owner shall notify the operator by certified mail, return receipt requested, within 20 days of the date on which the owner is notified that the operator intends to install cable television system facilities or an over-the-air reception device to the dwelling of a tenant of the owner's real estate. Without this notice, it will be conclusively presumed that the owner will not require payment in excess of the nominal amount mentioned in this section specified for such connection. If the owner gives notice, the owner, within 30 days after giving the notice, shall advise the operator in writing of the amount the owner claims as compensation for affixing cable television system facilities or an over-the-air reception device to the owner's real estate. If, within 30 days after receipt of the owner's claim for compensation, the operator has not agreed to accept the owner's demand, the owner may bring an action in the Superior Court to enforce the owner's claim for compensation. If the Superior Court decides in favor of the owner and orders the operator to pay the owner's claim for compensation, the operator shall reimburse the owner for reasonable attorney's fees incurred by the owner in litigation of this matter before the Superior Court. The action must be brought within 6 months of the date on which the owner first made demand upon the operator for compensation and not after that date.

It must be presumed that reasonable compensation is the nominal amount, but such presumption may be rebutted and overcome by evidence that the owner has a specific alternative use for the space occupied by cable television system facilities or equipment or an over-the-air reception device, the loss of which will result in a monetary loss to the owner, or that installation of cable television system facilities or equipment or an over-the-air reception device upon the multiple dwelling unit will otherwise substantially interfere with the use and occupancy of the unit or property to an extent that causes a decrease in the resale or rental value of the real estate. In determining the damages to any such real estate injured when no part of it is being taken, consideration is to be given only to such injury as is special and peculiar to the real estate and there must be deducted from the damages the amount of any benefit to the real estate by reason of the installation of cable television system facilities or an over-the-air reception device. [PL 2007, c. 57, §1 (AMD).]

G. None of the steps enumerated in paragraph F, to claim or enforce a demand for compensation in excess of the nominal amount, may impair or delay the right of the operator to install, maintain or remove cable television system facilities or an over-the-air reception device at a tenant's dwelling on the real estate. The Superior Court has original jurisdiction to enforce this paragraph. [PL 2007, c. 57, §1 (AMD).]

H. A person owning, leasing, controlling or managing any multiple dwelling unit served by a cable television system or an over-the-air reception device may not discriminate in rental or other charges between tenants who subscribe to these services and those who do not, or demand or accept payment in any form for the affixing of cable television system equipment or an over-the-air reception device on or under the real estate, except that the owner of the real estate may require, in exchange for permitting the installation of cable television system equipment or an over-the-air reception device within and upon the real estate, reasonable compensation to be paid by the operator. The compensation must be determined in accordance with this subsection. [PL 2007, c. 57, §1 (AMD).]

I. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Operator" means any person, firm or corporation owning, controlling, operating, managing or leasing a cable television system, satellite system, wireless cable system or any other system involving the transmission and reception of a signal or any lawful agent appointed by any one of the persons or entities mentioned in this subparagraph.

(2) "Multiple dwelling unit" means any building or structure that contains 2 or more apartments or living units.

(2-A) "Over-the-air reception device" means a device used for receiving a signal that is transmitted over the air, including, but not limited to, a satellite dish apparatus, a television antenna and a wireless cable antenna.

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

(4) "Tenant" means one who has the temporary use and occupation of real property owned by another person. [PL 2007, c. 57, §1 (AMD).]

[PL 2007, c. 57, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 294 (NEW). PL 2007, c. 57, §1 (AMD).

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