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SENATE BILL 5870

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State of Washington

52nd Legislature

1991 Regular Session

By Senator Williams.

Read first time February 27, 1991. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to multiple dwelling units' tenants' access to  
2 cable television systems; and adding new sections to chapter 59.18 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature recognizes the vital  
5 role of cable television in the flow of information within the state  
6 and agrees that it is in the public interest that cable television be  
7 available to as many of its citizens as possible. It further declares  
8 that it is in the public interest to assure citizens who reside in  
9 apartments and other tenants of leased residential dwellings access to  
10 cable television services of a quality and cost comparable to services  
11 available to residents living in personally owned dwellings. It is the  
12 legislature's intent that the public interest is best served in  
13 affording apartment and multi-unit tenants' leased dwellings the  
14 opportunity to obtain cable television services of their own choice and  
15 to prevent landlords from treating the residents and tenants as a

1 captive market for the sale of television reception services selected  
2 or provided by the landlord.

3 NEW SECTION. **Sec. 2.** For the purposes of sections 1 through  
4 12 of this act:

5 (1) "CATV system" or "cable television system" means a system or  
6 facility, or part thereof, which consists of a set of transmission  
7 paths and associated signal generation, reception, amplification, and  
8 control equipment that is operated or intended to be operated to  
9 perform the service of receiving and amplifying the distributing and  
10 redistribution signals broadcast or transmitted by one or more  
11 television or radio stations or information distribution service  
12 companies, including, but not limited to, the cable communications  
13 system owner, operator, or manager itself, to subscribers. The terms  
14 include the service of distributing any video, audio, digital, light,  
15 or audio-video signals, whether broadcast or otherwise.

16 (2) "Holding a franchise" means obtaining municipal consent or  
17 approval to construct or operate a CATV system and render CATV system  
18 services whether granted by resolution, ordinance, or written  
19 agreement. The term includes a person who has constructed and is  
20 operating a CATV system within the public right of way of a  
21 municipality which at the time of construction and initial operation  
22 of the CATV system did not require that municipal consent be obtained.

23 (3) "Landlord" means any individual or entity owning, controlling,  
24 leasing, operating, or managing multiple dwelling premises.

25 (4) "Multiple dwelling premises" means any area occupied by  
26 dwelling units, appurtenances thereto, grounds, and facilities, which  
27 dwelling units are intended or designed to be occupied or leased for  
28 occupation, or actually occupied, as individual homes or residences for  
29 three or more households. The term includes mobile home parks.

1 (5) "Operator" means the operator of a CATV system holding a  
2 franchise granted by the municipality or municipalities in which the  
3 multiple dwelling premises to be served is located.

4 NEW SECTION. **Sec. 3.** A landlord may not discriminate in  
5 rental or other charges between tenants who subscribe to the services  
6 of a CATV system and those who do not. The landlord may, however,  
7 require reasonable compensation in exchange for a permanent taking of  
8 his or her property resulting from the installation of CATV system  
9 facilities within and upon his or her multiple dwelling premises, to be  
10 paid by the operator. The compensation shall be determined in  
11 accordance with section 7 of this act.

12 NEW SECTION. **Sec. 4.** A tenant has the right to request and  
13 receive cable television services from an operator or a landlord  
14 provided that there has been an agreement between a landlord and an  
15 operator through the negotiation process outlined in section 5 of this  
16 act or through a ruling of an arbitrator as provided for in section 7  
17 of this act. A landlord may not prohibit or otherwise prevent a tenant  
18 from requesting or acquiring cable television service from an operator  
19 of the tenant's choice provided that there has been an agreement  
20 between a landlord and an operator through the negotiation process  
21 outlined in section 5 of this act or through a ruling of an arbitrator  
22 as provided for in section 7 of this act. A landlord may not prevent  
23 an operator from entering such premises for the purposes of  
24 constructing, reconstructing, installing, servicing or repairing CATV  
25 system facilities or maintaining cable television services if a tenant  
26 of a multiple dwelling premise has requested such cable television  
27 services and if the operator complies with sections 3 through 11 of  
28 this act. The operator shall retain ownership of all wiring or

1 equipment used in any installation or upgrade of a CATV system in  
2 multiple dwelling premises. An operator shall not provide cable  
3 television services to an individual dwelling unit unless permission  
4 has been given by or received from the tenant occupying the unit.

5 NEW SECTION. **Sec. 5.** An operator shall notify the landlord,  
6 in writing, within ten days after the operator decides to provide cable  
7 television services if a tenant of a multiple dwelling premises  
8 requests the operator to provide cable television services, and if the  
9 operator decides that it will provide the services. If the operator  
10 fails to provide the notice, then the tenant's request shall be  
11 terminated. If the operator agrees to provide the cable television  
12 services, then a forty-five day period of negotiation between the  
13 landlord and the operator shall be commenced. This original notice  
14 shall state as follows: "The landlord, tenants, and operators have  
15 rights granted under sections 1 through 11 of this act, known as "the  
16 landlord and tenant cable television act." The original notice shall  
17 be accompanied by a proposal outlining the nature of the work to be  
18 performed and including an offer of compensation for loss in value of  
19 property given in exchange for the permanent installation of CATV  
20 system facilities. The proposal also shall include a statement that  
21 the operator is liable to the landlord for any physical damage, set  
22 forth the means by which the operator will comply with the installation  
23 requirements of the landlord under section 6 of this act, and state the  
24 time period for installation and security to be provided. The landlord  
25 may waive his or her right to security at any time in the negotiation  
26 process.

27 During the forty-five day negotiation period, the landlord and the  
28 operator shall attempt to reach an agreement concerning the terms upon  
29 which cable television services shall be provided. If, within the

1 forty-five day period or at any time thereafter, the proposal results  
2 in an agreement between the landlord and the operator, cable television  
3 services shall be provided in accordance with the agreement. If, at  
4 the end of the forty-five day period, the proposal does not result in  
5 an agreement between the landlord and the operator, then section 7 of  
6 this act shall apply. The right of a tenant to receive cable  
7 television service may not be delayed beyond the forty-five day period  
8 contained in the original notice or otherwise impaired unless the  
9 matter proceeds to arbitration or court as provided in sections 7 and  
10 8 of this act. An operator may bring a civil action to enforce the  
11 right of cable television services installation under sections 1  
12 through 12 of this act.

13 NEW SECTION. **Sec. 6.** An operator is liable to the landlord  
14 for any physical damage caused by the installation, operation, or  
15 removal of CATV system facilities. A landlord may require that the  
16 installation of a cable television system conforms to reasonable  
17 conditions necessary to protect the safety, function, and appearance of  
18 the premises, and the convenience and well-being of tenants. A  
19 landlord may also require that the installation of a cable television  
20 system conforms to reasonable requirements as to the location of main  
21 cable connections to the premises, the routing of cable lines through  
22 the premises, and the overall appearance of the finished installation.  
23 The operator shall locate the entry of a main cable connection to the  
24 premises at the same location as the entry into the premises of public  
25 utility connections, to the extent possible. A second or subsequent  
26 installation of a cable television system, if any, shall conform to  
27 such reasonable requirements in a way that minimizes further physical  
28 intrusion to or through the premises.

1 NEW SECTION. **Sec. 7.**

2 (1) A landlord is entitled to just  
3 compensation from an operator resulting from loss in value of property  
4 resulting from the permanent installation of CATV system facilities on  
5 the premises.

6 (2) If a landlord believes that the loss in value of property  
7 exceeds the compensation contained in the proposal accompanying the  
8 original notice, or believes that the terms involving the work to be  
9 performed contained in the proposal are unreasonable, or both, the  
10 issue of just compensation or reasonableness of terms shall be  
11 determined in accordance with the following procedures:

12 (a) At any time prior to the end of the forty-five day period from  
13 the date when the landlord received the original notice that the  
14 operator intends to construct or install a CATV system facility in  
15 multiple dwelling premises, the landlord shall serve upon the operator  
16 written notice that the landlord demands a greater amount of  
17 compensation or believes that the terms involving the work to be  
18 performed are unreasonable.

19 (b) If the operator is dissatisfied with the result of the  
20 negotiations at the conclusion of the forty-five day negotiation  
21 period, then the operator shall notify the landlord of the terms that  
22 the operator believes to be unenforceable and shall accompany this  
23 notice with a formal request for arbitration.

24 (c) Arbitration proceedings shall be conducted in accordance with  
25 the procedures of the American arbitration association or any successor  
26 thereto. The proceedings shall be held in the county in which the  
27 multiple dwelling premises or part thereof is located. Requirements of  
28 sections 1 through 12 of this act relating to time, presumptions, and  
29 compensation for loss of value shall apply in the proceedings. The  
30 cost of the proceedings, including attorneys' fees, shall be shared  
equally by the landlord and the operator. The arbitration proceedings,

1 once commenced, shall be concluded and a written decision by the  
2 arbitrator shall be rendered within fourteen days of commencement.  
3 Judgment upon any award may be entered in any court having  
4 jurisdiction.

5 (d) Within thirty days of the date of the notice of the decision of  
6 the arbitrators, either party may appeal the decision of the  
7 arbitrators to the superior court regarding the amount awarded as  
8 compensation for loss of value or for physical damages to the property.  
9 During the pendency of an appeal, the operator may not enter the  
10 multiple dwelling premises to provide cable television services, except  
11 as to those units that have existing cable television services. The  
12 court shall order each party to pay one-half of the arbitration costs.  
13 Reviews of arbitration decisions shall be limited to the record and  
14 findings established by the arbitrators.

15 (3) In determining reasonable compensation, evidence that a  
16 landlord has a specific alternative use for the space occupied or to be  
17 occupied by CATV system facilities, the loss of which will result in a  
18 monetary loss to the owner, or that installation of CATV system  
19 facilities upon such multiple dwelling premises will otherwise  
20 substantially interfere with the use and occupancy of such premises to  
21 an extent which causes a decrease in the resale or rental value thereof  
22 shall be considered. In determining the damages to any landlord in an  
23 action under this section, compensation shall be measured by the loss  
24 in value of the landlord's property. An amount representing increase  
25 in value of the property occurring by reason of the installation of  
26 CATV system facilities shall be deducted from the compensation.

27 (4) The time periods in this section may be extended by mutual  
28 agreement between the landlord and the operator.

1        NEW SECTION.    **Sec. 8.**        The superior court of the county in  
2 which the multiple dwelling premises or a part thereof is located shall  
3 have venue of all actions to enforce the provisions of sections 1  
4 through 12 of this act or to hear any appeal from the award of  
5 arbitrators or any dispute between the parties.

6        NEW SECTION.    **Sec. 9.**        Nothing in sections 1 through 12 of this  
7 act precludes a landlord from offering alternative cable television  
8 services to tenants provided that the provisions of sections 1 through  
9 12 of this act are not violated.

10       NEW SECTION.    **Sec. 10.**       The operator shall comply with all  
11 federal, state, or local statutes, rules, regulations, or ordinances  
12 with respect to buildings located in historical districts. Nothing in  
13 sections 1 through 12 of this act may be construed as preventing,  
14 precluding, or restricting any political subdivision of the state from  
15 regulating cable television as may now be provided by law.

16       NEW SECTION.    **Sec. 11.**       Cable television services being provided  
17 to tenants in multiple dwelling premises on the effective date of this  
18 section may not be prohibited or otherwise prevented so long as the  
19 tenant in an individual dwelling unit continues to request the  
20 services.

21       NEW SECTION.    **Sec. 12.**       This act may be known and cited as the  
22 landlord and tenant cable television act.

23       NEW SECTION.    **Sec. 13.**       Sections 1 through 12 of this act are  
24 each added to chapter 59.18 RCW.



1        NEW SECTION.    **Sec. 14.**        If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.