

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

As Engrossed: S2/6/97 S2/11/97 S2/25/97

## A Bill

SENATE BILL 211

4  
5 By: Senators Gwatney and Smith

### For An Act To Be Entitled

9 "AN ACT TO PROVIDE THAT CABLE TELEVISION SERVICE PROVIDERS  
10 SHALL HAVE EQUAL ACCESS TO RESIDENTIAL PREMISES; AND FOR  
11 OTHER PURPOSES."

### Subtitle

14 "TO PROVIDE THAT CABLE TELEVISION  
15 SERVICE PROVIDERS SHALL HAVE EQUAL  
16 ACCESS TO RESIDENTIAL PREMISES"

17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. If any municipality has granted a franchise to any provider  
21 of cable television service to construct, operate or maintain cable television  
22 service within a designated franchise area, no property owner, condominium  
23 association, managing agent, lessor or other person in possession or control  
24 of any residential dwelling located within such designated franchise area may  
25 forbid or prevent any occupant, tenant or lessee of any such dwelling from  
26 receiving cable television service from such franchisee, nor demand or accept  
27 payment from any such occupant, tenant or lessee in any form as condition of  
28 permitting the installation of cable television facilities or the maintenance  
29 of cable television service in any such dwelling or any portion thereof  
30 occupied or leased by such occupant, tenant or lessee, nor shall any such  
31 property owner, condominium association, managing agent, lessee or other  
32 person discriminate in rental charges or otherwise against any occupant,  
33 tenant or lessee receiving cable service. This section shall not apply to  
34 residential dwelling units, within which, as of January 1, 1997, all the  
35 occupants are receiving cable television service directly from the property  
36 owner over facilities owned by the property owner, if said services are

1 reasonably comparable to services provided by the franchised cable television  
2 service provider.

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4 SECTION 2. No provider of cable television services shall install cable  
5 television service facilities within a residential dwelling under this section  
6 unless an owner, occupant, tenant or lessee of such residential dwelling  
7 requests the delivery of cable television services.

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9 SECTION 3. The cable television franchisee installing such cable  
10 television facilities shall agree to indemnify the owner of such dwelling for  
11 damage caused by installation, operation or removal of such cable television  
12 facilities and service.

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14 SECTION 4. (a) The property owner shall receive just compensation for the  
15 installation of cable television facilities. Upon receiving a request for  
16 access from a cable television operator, a property owner shall negotiate with  
17 the cable television franchisee in good faith to determine such just  
18 compensation in accordance with the following factors:

19 (1) the extent to which the cable television facilities physically  
20 occupy such dwelling;

21 (2) the extent to which such facilities would interfere with the normal  
22 use and enjoyment of such dwelling; and

23 (3) the enhancement in value of such dwelling resulting from the  
24 availability of services provided over the cable television facilities.

25 (b) If a property owner believes that the loss in value of the property  
26 exceeds the compensation contained in the proposal accompanying the original  
27 notice of intent to provide service or believes that the terms involving the  
28 work to be performed contained in the proposal are unreasonable, or both, the  
29 issue of just compensation or reasonableness of terms shall be determined in  
30 accordance with the following procedure:

31 (1) At any time prior to the end of the forty-five (45) day  
32 period from the date when the property owner receives the original notice that  
33 the operator intends to construct or install a cable television system  
34 facility in multiple dwelling premises, the property owner shall serve upon  
35 the operator written notice that the property owner demands a greater amount  
36 of compensation or believes that the terms involving the work to be performed

1 are unreasonable.

2 (2) If the operator is dissatisfied with the result of the  
3 negotiations at the conclusion of the forty-five (45) day negotiation period,  
4 then he shall notify the property owner of the terms which the operator  
5 believes to be unreasonable and shall accompany this notice with a formal  
6 request for arbitration.

7 (3) Arbitration proceedings shall be conducted in accordance with  
8 the procedures of the American Arbitration Association or any successor  
9 thereto. The proceedings shall be held in the county in which the multiple  
10 dwelling premises or part thereof are located. Requirements of this act  
11 relating to time, presumptions and compensation for loss of value shall apply  
12 in the proceedings. The cost of proceedings shall be shared equally by the  
13 property owner and the operator. The arbitration proceedings, once commenced  
14 shall be concluded and a written decision by the arbitrator shall be rendered  
15 within fourteen (14) days of commencement. Judgement upon any award may be  
16 entered in any court of competent jurisdiction.

17 (4) Within thirty (30) days of the date of the notice of the  
18 decision of the arbitrators, either party may appeal the decision of the  
19 arbitrators to a court of competent jurisdiction, regarding the amount awarded  
20 as compensation for loss of value or for physical damages to the property.  
21 The court shall order each party to pay one-half (1/2) of the arbitration  
22 costs.

23 (c) In determining reasonable compensation, evidence that a property  
24 owner has a specific alternative use for the space occupied or to be occupied  
25 by cable television system facilities, the loss of which will result in a  
26 monetary loss to the owner, or that installation of cable television system  
27 facilities upon such multiple dwelling premises will otherwise substantially  
28 interfere with the use and occupancy of such premises to an extent which  
29 causes a decrease in the resale or rental value thereof shall be considered.  
30 In determining the damages to any property owner in an action under this  
31 section, compensation shall be measured by the loss in value of the property  
32 owners property. An amount representing increase in value of the property  
33 occurring by reason of the installation of cable television system facilities  
34 shall be deducted from the compensation.

35 (d) The time period set forth in this section may be extended by mutual  
36 agreement between the property owner and the operator.

1 SECTION 5. All provisions of this act of a general and permanent nature  
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 6. If any provision of this act or the application thereof to  
6 any person or circumstance is held invalid, such invalidity shall not affect  
7 other provisions or applications of the act which can be given effect without  
8 the invalid provision or application, and to this end the provisions of this  
9 act are declared to be severable.

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11 SECTION 7. All laws and parts of laws in conflict with this act are  
12 hereby repealed.

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*/s/Gwatney et al*

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