

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1500
91ST GENERAL ASSEMBLY

Reported from the Committee on Utilities Regulation, April 18, 2002, with recommendation that the House Committee Substitute for House Bill No. 1500 Do Pass.

TED WEDEL, Chief Clerk

3867L.07C

AN ACT

To amend chapter 441, RSMo, by adding thereto one new section relating to landlord agreements with telecommunication providers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 441, RSMo, is amended by adding thereto one new section, to be
2 known as section 441.238, to read as follows:

441.238. 1. For the purposes of this section, the following terms mean:

2 **(1) "Multiple dwelling unit", any residential structure that contains four or more**
3 **separate residential units;**

4 **(2) "Owner", the record owner or owners, and the beneficial owner and owners**
5 **when other than the record owner, of the freehold of the premises or lesser estate therein,**
6 **a mortgagee or vendee in possession, assignee of rents, receiver, personal representative,**
7 **trustee, lessee, agent, or any other person in control of a dwelling unit; and**

8 **(3) "Provider", a business that holds a certification of services authority to provide**
9 **local exchange telecommunication service from the Missouri public service commission or**
10 **a business that holds a cable franchise with a local governing body pursuant to 47 U.S.C.**
11 **Section 541.**

12 **2. An owner who has entered into an agreement with a provider to grant the**
13 **provider an exclusive easement or an exclusive right to provide service to the owner's**
14 **multiple dwelling units may, at the owner's option and without penalty, void the exclusivity**
15 **provisions of the existing agreement if the owner intends to enter into an agreement with**
16 **another provider who requests to serve the owner's multiple dwelling units. The owner**
17 **may then negotiate an agreement with the requesting provider, provided that the**
18 **subsequent agreements with the requesting provider and the incumbent provider do not**

19 place the owner in a worse position financially than the original agreement with the
20 incumbent provider.

21 3. If the requesting provider and the owner cannot agree on an appropriate rate
22 of compensation or cannot determine the amount of compensation that is necessary to not
23 place the owner in a worse position financially than the original agreement with the
24 incumbent provider, an arbitrator shall be appointed to determine the appropriate level
25 of compensation due to the owner. The arbitrator shall be an individual who is mutually
26 agreeable to the parties or, if the parties cannot agree, the requesting provider may file a
27 petition with the state circuit court to request that a judge appoint the arbitrator. The
28 terms and conditions of the original agreement with the incumbent provider shall be made
29 available to the arbitrator. The cost of such a petition and arbitrator shall be borne by the
30 requesting provider.

31 4. After August 28, 2002, a provider and an owner shall not enter into any new
32 agreement, renew any existing agreement, or add any multiple dwelling units to an existing
33 agreement that gives the provider an exclusive easement or an exclusive right to provide
34 service to the owner's multiple dwelling units.

35 5. Any provision of an existing agreement that grants a provider an exclusive
36 easement or an exclusive right to provide service to an owner's multiple dwelling units shall
37 expire five years from the date the agreement was executed or on April 1, 2005, whichever
38 first occurs.

39 6. An owner shall not enter into an agreement, and a provider shall not enforce an
40 agreement, that is designed to circumvent rules prescribed by the Federal Communications
41 Commission with respect to cable home run wiring or inside wiring that is used to provide
42 telecommunication services to tenants.

43 7. Nothing in this section shall limit the jurisdiction of the public service
44 commission regarding private shared tenant services pursuant to section 392.520, RSMo.