

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 1188

By: Easley

COMMITTEE SUBSTITUTE

An Act relating to telecommunications; prohibiting property owner from exercising discrimination based on tenant request for installation of telecommunications service facility; prohibiting property owner from demanding or accepting payment for access to property; prohibiting property owner from preventing or interfering with installation of equipment; providing for enforcement upon application to district court; assigning costs; establishing rebuttable presumption of reasonable compensation to property owner; authorizing Corporation Commission to determine just compensation to property owner; stating legislative declaration; providing for codification; providing for noncodification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 139.201 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. If a telecommunications carrier holds a Certificate of Convenience and Necessity issued by the Corporation Commission, a public or private property owner may not:

1. Prevent the carrier from installing on the owner's property a telecommunications service facility a tenant requests;
2. Interfere with the carrier's installation on the owner's property of a telecommunications service facility a tenant requests;
3. Discriminate against such a carrier regarding installation, terms, or compensation of a telecommunications service facility to a tenant on the owner's property;

4. Demand or accept payment of any kind from a tenant or the carrier for allowing the carrier on or in the owner's property; or

5. Discriminate in favor of or against a tenant in any manner, including rental charge discrimination, because of the tenant's preference for or request for a telecommunications service.

B. Upon application by a carrier, the district court may issue all appropriate orders to enforce the provisions of subsection A of this section. The prevailing party to any action brought under this subsection shall be entitled to court costs, to include a reasonable attorney fee.

C. Notwithstanding the provisions of subsection A of this section, if a telecommunications carrier holds an appropriate Certificate of Convenience and Necessity, a public or private property owner may:

1. Obtain an order from the Commission requiring the carrier to indemnify the owner for damage caused by installing, operating, or removing a facility; or

2. Obtain an order from the Commission requiring the carrier to pay compensation to the owner that is reasonable and nondiscriminatory among telecommunications carriers. To obtain compensation, the owner shall file an application with the Commission within ninety (90) days after the carrier installs a telecommunications facility upon the owner's property. As presumed reasonable compensation, the owner will be entitled to receive One Dollar (\$1.00) as reasonable compensation per dwelling unit or the commercial equivalent thereof. However, the owner may rebut this presumption by presenting evidence at a hearing before the Commission. In setting the amount of compensation, the Commission shall base its determination on the diminution in the market value of the premises based on the installation of the telecommunications services.

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Pursuant to the authority vested in the Legislature by Section 35 of Article IX of the Oklahoma Constitution, the Legislature hereby expressly declares that the provisions of this act are an amendment to, and alteration of, Sections 18 through 34 inclusive of Article IX of the Oklahoma Constitution.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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