S T A T E O F N E W Y O R K

1081--A

2011-2012 Regular Sessions

I N S E N A T E

January 5, 2011

Introduced by Sens. PARKER, PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to discrimination in franchises and privileges

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 99 of the public service law is amended by adding a new subdivision 4 to read as follows:

4. NO BUILDING OWNER MAY DISCRIMINATE AGAINST A TELEPHONE COMPANY OR ITS ABILITY TO PROVIDE SERVICES TO ONE OR MORE TENANTS OF A MULTI-TENANT PROPERTY THAT IS OWNED OR CONTROLLED BY THE BUILDING OWNER, INCLUDING DISCRIMINATORY TERMS AND CONDITIONS BY WHICH A TELEPHONE COMPANY GAINS PHYSICAL ACCESS TO THE PROPERTY TO PLACE ITS FACILITIES AND PROVIDE TELECOMMUNICATIONS SERVICES TO THE PROPERTY'S TENANTS. THE COMMISSION SHALL HAVE JURISDICTION TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION BY APPROPRIATE RULES AND REGULATIONS AND TO ADJUDICATE ADMINISTRATIVELY DISPUTES ARISING UNDER THIS SUBDIVISION. IN NO EVENT MAY THE LACK OF AGREEMENT OVER TERMS AND CONDITIONS OF ACCESS DELAY THE ABILITY OF A REQUESTING TELECOMMUNICATIONS COMPANY TO OBTAIN ACCESS FOR MORE THAN THIRTY DAYS FOLLOWING AN INITIAL REQUEST THEREFOR. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT IMPAIR OR NULLIFY ANY CONTRACT IN PLACE BEFORE THE EFFECTIVE DATE OF THIS SUBDIVISION.

S 2. Section 228 of the public service law is amended by adding a new subdivision 4 to read as follows:

4. (A) NO PROVIDER OF MULTICHANNEL VIDEO PROGRAMMING OR OWNERS, LESSORS, MANAGERS OR PERSONS CONTROLLING OR MANAGING A RESIDENTIAL

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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MULTIUNIT BUILDING SHALL ENTER INTO OR RENEW ANY EXCLUSIVE MARKETING AGREEMENT WITH REGARD TO MULTICHANNEL VIDEO PROGRAMMING SERVICES.

(B) FOR PURPOSES OF THIS SUBDIVISION "EXCLUSIVE MARKETING AGREEMENT" IS A CONTRACT OR OTHER ARRANGEMENT, OTHER THAN A BULK SALES ARRANGEMENT, BETWEEN THE OWNER, LESSOR, MANAGER OR PERSON CONTROLLING OR MANAGING A RESIDENTIAL MULTIUNIT BUILDING AND A MULTICHANNEL VIDEO PROGRAMMING PROVIDER IN WHICH A MULTICHANNEL VIDEO PROGRAMMING PROVIDER IS GRANTED PREFERENCE OR EXCLUSIVE RIGHTS WITH REGARD TO THE MARKETING OR OFFERING OF SERVICES, OR ACCESS TO THE PREMISES FOR PURPOSES THEREOF.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately any and all rules and regulations and any other measures necessary to implement any provision of this act on its effective date may be promulgated and taken, respectively, on or before the effective date of such provision.