
A BILL FOR AN ACT

RELATING TO CABLE TELEVISION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that access to television
2 service is critical in today's current events-driven world, and
3 a lack of access to this service places a unique burden and
4 hardship upon the residents of the State.

5 Additionally, the legislature finds that requiring cable
6 operators to offer cable service in areas that have twenty-five
7 homes in a linear mile provides residents in these areas with
8 the access necessary to sustain the needs and uses of those
9 residents.

10 The legislature further finds that due to the proliferation
11 of providers offering the same types of services, this
12 requirement should not apply where cable service is already
13 available on a competitive basis from other providers.

14 The purpose of this Act is to:

15 (1) Remove the requirement that the director of commerce
16 and consumer affairs take into account the geography
17 and topography of a proposed service area, and the



- 1 present, planned, and potential expansion in
2 facilities or cable services of an applicant's
3 proposed cable system and existing cable systems;
- 4 (2) Require a cable operator to make available cable
5 services in areas that have twenty-five homes per
6 linear mile of the cable operator's distribution plant
7 unless at least three other cable franchisees or any
8 other person offers video programming or a video
9 programming service, under certain conditions;
- 10 (3) Exempt a cable operator from minimum density
11 requirements where it is technically infeasible to
12 offer service or if the cable operator is unable to
13 obtain reasonable access to the facilities necessary
14 to build out its cable system; and
- 15 (4) Authorize the director of commerce and consumer
16 affairs to grant waivers from service deployment
17 requirements.

18 SECTION 2. Section 440G-8, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§440G-8 Issuance of cable franchise authority; criteria;**
21 **content.** (a) The director is empowered to issue a cable



1 franchise to construct or operate facilities for a cable system
2 upon the terms and conditions provided in this chapter.

3 (b) The director, after a public hearing as provided in
4 this chapter, shall issue a cable franchise to the applicant
5 when the director is convinced that it is in the public interest
6 to do so. In determining whether a cable franchise shall be
7 issued, the director shall take into consideration, among other
8 things, the content of the application or proposal, the public
9 need for the proposed service, the ability of the applicant to
10 offer safe, adequate, and reliable service at a reasonable cost
11 to the subscribers, the suitability of the applicant, the
12 financial responsibility of the applicant, the technical and
13 operational ability of the applicant to perform efficiently the
14 service for which authority is requested, any objections arising
15 from the public hearing, the cable advisory committee
16 established by this chapter, or elsewhere, and any other matters
17 as the director deems appropriate in the circumstances.

18 ~~[(c) In determining the area which is to be serviced by~~
19 ~~the applicant, the director shall take into account the~~
20 ~~geography and topography of the proposed service area, and the~~
21 ~~present, planned, and potential expansion in facilities or cable~~



1 ~~services of the applicant's proposed cable system and existing~~
2 ~~cable systems.]~~

3 (c) In carrying out its duties under this section, the
4 director shall require a cable operator to make cable service
5 available to any residence within the cable operator's service
6 area located in a portion of the area where there is a minimum
7 density of at least twenty-five homes per linear mile of
8 distribution plant, as measured from the cable operator's
9 closest technologically feasible tie-in point that is actively
10 delivering cable service and excluding any residences already
11 passed by the distribution plant; provided that the director
12 shall not apply the service deployment requirement threshold
13 authorized under this subsection, or any other service
14 deployment threshold or line extension requirement set forth in
15 a franchise in effect on the date of enactment of this
16 subsection, in any portion of a cable operator's service area
17 where video programming or video programming service is
18 available from at least three other entities, which may include
19 other cable franchisees, other multichannel video programming
20 distributors, as defined in title 47 United States Code section
21 522(13), or any other person that offers video programming or a



1 video programming service, by any means, including via the
2 internet, that is comparable to the video programming service
3 provided by the cable operator or other multichannel video
4 programming distributors, and such programming or service is
5 delivered at least in part through facilities in the public
6 right of way, including but not limited to wireline
7 infrastructure. Nothing in this section shall be construed to
8 limit or restrict a cable operator's business discretion to
9 serve any residence within its service area.

10 (d) Nothing in this section shall require a cable operator
11 to provide service to any portion of a franchise area where it
12 is technically infeasible to offer service, or to require a
13 cable operator to make service available in any portion of a
14 franchise area where the operator cannot obtain access to
15 necessary poles, ducts, or conduits on commercially reasonable
16 terms or where a private property owner denies access to
17 easements necessary to make service available to residents of
18 such property, or refuses, following good faith efforts by such
19 cable operator to grant access to a property or development on
20 commercially reasonable terms. The director shall also be



1 authorized to grant waivers of the obligation set forth in
2 subsection (c) where necessary or in the public interest.

3 ~~(d)~~ (e) In issuing a cable franchise under this chapter,
4 the director ~~is~~ shall not be restricted to approving or
5 disapproving the application or proposal but may issue it for
6 only partial exercise of the privilege sought or may attach to
7 the exercise of the right granted by the cable franchise terms,
8 limitations, and conditions ~~which~~ that the director deems the
9 public interest may require. The cable franchise shall be
10 nonexclusive, shall include a description of the service area in
11 which the cable system is to be constructed, extended, or
12 operated, and the approximate date on which the service is to
13 commence and shall authorize the cable operator to provide
14 service for a term of fifteen years."

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on January 2, 2050.



Report Title:

Cable Television; Cable Operators; Required Cable Service; DCCA

Description:

Amends the factors the director of commerce and consumer affairs must consider when determining whether cable service should be made available upon a new application of a cable franchise. Requires that the director require cable operators to provide cable service to residences in their service area where there is a minimum density of at least twenty-five homes per linear mile, with certain exceptions. Authorizes the director to grant waivers. Effective 1/2/2050. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

