

106TH CONGRESS  
1ST SESSION

# H. R. 3487

To provide consumers in multitenant buildings with the benefits of competition among providers of telecommunications services by ensuring reasonable and nondiscriminatory access to rooftops of multitenant buildings by competitive telecommunications carriers, and promote the development of fixed wireless, local telephony, and broadband infrastructure, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 1999

Mr. OXLEY (for himself, Mr. DAVIS of Virginia, Mr. BOUCHER, Ms. ESHOO, and Mr. STUPAK) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To provide consumers in multitenant buildings with the benefits of competition among providers of telecommunications services by ensuring reasonable and nondiscriminatory access to rooftops of multitenant buildings by competitive telecommunications carriers, and promote the development of fixed wireless, local telephony, and broadband infrastructure, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Competitive  
3 Broadband Telecommunications Rooftop Access Act”.

4 **SEC. 2. ACCESS TO ROOFTOPS OF MULTITENANT BUILD-**  
5 **INGS FOR COMPETITIVE TELECOMMUNI-**  
6 **CATIONS SERVICES.**

7 Part I of title III of the Communications Act of 1934  
8 (47 U.S.C. 301 et seq.) is amended by adding at the end  
9 the following new section:

10 **“SEC. 338. ACCESS TO ROOFTOPS OF MULTITENANT BUILD-**  
11 **INGS FOR COMPETITIVE TELECOMMUNI-**  
12 **CATIONS SERVICES.**

13 “(a) REQUIREMENT OF OWNERS TO PERMIT AC-  
14 CESS.—

15 “(1) ACCESS REQUIRED.—Within 15 days of a  
16 telecommunications carrier request, the owner of an  
17 occupied multitenant building shall permit a tele-  
18 communications carrier reasonable, standardized,  
19 and nondiscriminatory access—

20 “(A) to install, maintain, and operate—

21 “(i) telecommunications transmission  
22 and reception antennas on top of a multi-  
23 tenant building; and

24 “(ii) related receiver equipment in me-  
25 chanical rooms or closets; and

1                   “(B) to vertical and horizontal building ris-  
2                   ers,  
3                   in the manner necessary to provide telecommuni-  
4                   cations service or information service to a tenant or  
5                   tenants in the occupied multitenant building.

6                   “(2) NONDISCRIMINATORY CONDITIONS FOR AC-  
7                   CESS.—An owner is required to permit a tele-  
8                   communications carrier access under paragraph (1)  
9                   only if—

10                   “(A) a tenant in the occupied multitenant  
11                   building requests services from that tele-  
12                   communications carrier;

13                   “(B) the cost of the installation of facilities  
14                   is assumed by such telecommunications carrier;

15                   “(C) the telecommunications carrier agrees  
16                   to indemnify the owner of the multitenant  
17                   building for any damages caused by the instal-  
18                   lation or operation of such facilities and agrees  
19                   not to hold the owner liable for any such dam-  
20                   ages;

21                   “(D) the telecommunications carrier agrees  
22                   to comply with all rules of the Commission and  
23                   the State in which the multitenant building is  
24                   located relating to such installation;

1           “(E) the telecommunications carrier has  
2           obtained a Federal or State certificate of public  
3           convenience and necessity for the provision of  
4           facilities-based services;

5           “(F) transmission antennae for which roof-  
6           top space is required are one meter or less in  
7           diameter; and

8           “(G) it is not technically infeasible for the  
9           owner of the multitenant building to provide  
10          space for the additional telecommunications  
11          carrier, but in any event not more than six sep-  
12          arate systems.

13          “(3) PERMISSIBLE CONDITIONS OF INSTALLA-  
14          TION.—In the case of any access described in para-  
15          graph (1), the owner of an occupied multitenant  
16          building may—

17               “(A) reasonably and in a standardized,  
18               nondiscriminatory manner restrict the times  
19               during which installation may occur; and

20               “(B) impose reasonable, standardized, non-  
21               discriminatory conditions on telecommuni-  
22               cations carriers reasonably necessary to pre-  
23               serve the safety, security, and condition of the  
24               multitenant building and its tenants.

1       “(b) LIMITATION ON COMPENSATION FOR ACCESS.—

2       The owner of an occupied multitenant building may not—

3               “(1) demand or accept payment or any thing of  
4       value, except as provided in subsection (c), for per-  
5       mitting a telecommunications carrier to have access  
6       described in subsection (a)(1) to the occupied multi-  
7       tenant building; or

8               “(2) discriminate against or otherwise penalize  
9       any tenant of the occupied multitenant building in  
10      the rental charges or provision of any services the  
11      owner provides or controls to such tenant because of  
12      the receipt by the tenant, or failure to receive, tele-  
13      communications services from any particular tele-  
14      communications carrier.

15      “(c) COMPENSATION.—

16              “(1) OWNERS MAY RECEIVE JUST COMPENSA-  
17      TION.—The owner of an occupied multitenant build-  
18      ing may demand and receive just compensation from  
19      a telecommunications carrier for the access nec-  
20      essary to permit the installation, operation, and  
21      maintenance of facilities and equipment described in  
22      subsection (a)(1). Such compensation shall be rea-  
23      sonable and shall be assessed in a nondiscriminatory  
24      manner.

1           “(2) REGULATIONS REQUIRED.—Within 180  
2       days after the enactment of the Competitive  
3       Broadband Telecommunications Rooftop Access Act,  
4       the Commission shall promulgate regulations for de-  
5       termining the level of just compensation owed to an  
6       owner of an occupied multitenant building by a tele-  
7       communications carrier for the access described in  
8       subsection (a)(1) to be used in the event that such  
9       owner and telecommunications carrier are unable to  
10      mutually agree within 15 days upon the amount of  
11      just compensation. The final rule shall be made ef-  
12      fective within 210 days after such date of enact-  
13      ment.

14           “(3) FACILITIES INSTALLATION PENDING RESO-  
15      LUTION OF COMPENSATION DISPUTE.—Notwith-  
16      standing any other provision of law, the rules pro-  
17      mulgated pursuant to paragraph (2) shall permit a  
18      telecommunications carrier to install, on the rooftop  
19      of any occupied multitenant building, facilities pur-  
20      suant to subsection (a)(1) pending the resolution of  
21      any dispute regarding just compensation for any  
22      taking of property related to the installation.

23           “(d) CIVIL PENALTIES.—After issuance by the Com-  
24      mission of notice to any person that the Commission has  
25      determined that such person has failed to comply with any

1 provision of subsection (a), (b), or (c), such person shall  
2 be liable for a forfeiture penalty under section 503 in the  
3 amount of \$1,000 for each violation or each day of a con-  
4 tinuing violation.

5 “(e) DEFINITIONS.—For purposes of this section, the  
6 following definitions shall apply:

7 “(1) JUST COMPENSATION.—The term ‘just  
8 compensation’ means reasonable fees that are based  
9 on the commercial rental value of the space actually  
10 used by the telecommunications carrier and that do  
11 not discriminate among State-certified telecommuni-  
12 cations carriers. Rates paid for space primarily used  
13 to provide telecommunications services to those out-  
14 side the occupied multitenant building shall not be  
15 considered in calculating commercial rental value of  
16 the space used by the telecommunications carrier.

17 “(2) OCCUPIED MULTITENANT BUILDING.—The  
18 term ‘occupied multitenant building’ means a struc-  
19 ture or part of a structure that is rented, leased,  
20 hired out, arranged or designed to be occupied, or is  
21 occupied—

22 “(A) as a residence of ten or more families  
23 or individual persons living in separate dwelling  
24 units;

1           “(B) as a place of business of three or  
2           more persons, firms, partnerships, associations,  
3           corporations, or other entities conducting busi-  
4           ness independently of each other; or

5           “(C) by any combination of three or more  
6           such families, individual persons, firms, part-  
7           nerships, associations, corporations, or entities.

8           Such term includes office buildings, apartment  
9           buildings, condominiums, mixed-use buildings, and  
10          hospitals.

11          “(3) OWNER.—The term ‘owner’ means, with  
12          respect to an occupied multitenant building, the  
13          owner or owners, the owners’ agent, assign, or suc-  
14          cessor in interest, or the lessor.

15          “(4) TENANT.—The term ‘tenant’ means, with  
16          respect to an occupied multitenant building, any per-  
17          son or entity having a legal right to occupy the  
18          building (or portion of a unit thereof).”.

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