A BILL FOR AN ACT

RELATING TO CABLE TELEVISION.

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

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

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

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

The purpose of this Act is to:

(1) Remove the requirement that the director of commerce and consumer affairs take into account the geography and topography of a proposed service area, and the
present, planned, and potential expansion in facilities or cable services of an applicant's proposed cable system and existing cable systems;

(2) Require a cable operator to make available cable services in areas that have twenty-five homes per linear mile of the cable operator's distribution plant unless at least three other cable franchisees or any other person offers video programming or a video programming service, under certain conditions;

(3) Exempt a cable operator from minimum density requirements where it is technically infeasible to offer service or if the cable operator is unable to obtain reasonable access to the facilities necessary to build out its cable system; and

(4) Authorize the director of commerce and consumer affairs to grant waivers from service deployment requirements.

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

"§440G-8 Issuance of cable franchise authority; criteria; content. (a) The director is empowered to issue a cable
franchise to construct or operate facilities for a cable system upon the terms and conditions provided in this chapter.

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

(e) In determining the area which is to be serviced by the applicant, the director shall take into account the geography and topography of the proposed service area, and the present, planned, and potential expansion in facilities or cable
services of the applicant's proposed cable system and existing cable systems.

(c) In carrying out its duties under this section, the director shall require a cable operator to make cable service available to any residence within the cable operator's service area located in a portion of the area where there is a minimum density of at least twenty-five homes per linear mile of distribution plant, as measured from the cable operator's closest technologically feasible tie-in point that is actively delivering cable service and excluding any residences already passed by the distribution plant; provided that the director shall not apply the service deployment requirement threshold authorized under this subsection, or any other service deployment threshold or line extension requirement set forth in a franchise in effect on the date of enactment of this subsection, in any portion of a cable operator's service area where video programming or video programming service is available from at least three other entities, which may include other cable franchisees, other multichannel video programming distributors, as defined in title 47 United States Code section 522(13), or any other person that offers video programming or a
video programming service, by any means, including via the internet, that is comparable to the video programming service provided by the cable operator or other multichannel video programming distributors, and such programming or service is delivered at least in part through facilities in the public right of way, including but not limited to wireline infrastructure. Nothing in this section shall be construed to limit or restrict a cable operator's business discretion to serve any residence within its service area.

(d) Nothing in this section shall require a cable operator to provide service to any portion of a franchise area where it is technically infeasible to offer service, or to require a cable operator to make service available in any portion of a franchise area where the operator cannot obtain access to necessary poles, ducts, or conduits on commercially reasonable terms or where a private property owner denies access to easements necessary to make service available to residents of such property, or refuses, following good faith efforts by such cable operator to grant access to a property or development on commercially reasonable terms. The director shall also be
authorized to grant waivers of the obligation set forth in
subsection (c) where necessary or in the public interest.

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

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

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)

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