

STORAGE NAME: h3259a.grr

DATE: April 7, 1998

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GOVERNMENTAL RULES AND REGULATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3259

RELATING TO: Condominiums

SPONSOR(S): Representative Wasserman-Schultz

COMPANION BILL(S): SB 852

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) REAL PROPERTY & PROBATE 4 YEAS 0 NAYS
- (2) BUSINESS REGULATION AND CONSUMER AFFAIRS YEAS 7 NAYS 0
- (3) GOVERNMENTAL RULES AND REGULATIONS YEAS 4 NAYS 0
- (4)
- (5)

I. SUMMARY:

HB 3259 revises s. 718.115, F.S., relating to common expenses for the cost of a master antenna television system or franchised cable television service obtained pursuant to a bulk contract. This bill permits unit owners receiving supplemental security income or food stamps to discontinue cable television service without disconnect fees, penalties, or service charges.

This bill will not have a fiscal impact on state or local government.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 718.115, Florida Statutes, provides that if a condominium so provides in its declaration, the cost of a master antenna television system or duly franchised cable television service (cable television) obtained pursuant to a bulk contract, it is deemed a common expense. Otherwise, the cost is considered a common expense if it is designated as such in a written contract between the board of administration and the company providing the cable television service. The contract must be for a term of at least 2 years. Common expenses are divided equally amongst all residents and cable television subscribers.

Florida statutes provide that any contract for cable television service is deemed to allow any hearing impaired or legally blind unit owner who does not occupy the unit with a nonhearing impaired or sighted person to discontinue the service without incurring disconnect fees, penalties, or subsequent service charges. In addition, these unit owners not receiving services are not required to pay common expenses for service, resulting in the remaining unit owners incurring a greater percentage of the common expense.

This bill results from a constituent who is receiving public assistance benefits, and living in a condominium, who cannot afford to pay the common expense for cable television service. In current law, there is no provision permitting an individual who cannot afford the common expense of cable television services to discontinue services.

Public assistance is defined in chapter 414, Florida Statutes, as benefits paid on the basis of temporary cash assistance, food stamps, Medicaid, or optional state supplementation. The language in this bill is similar to that in state programs providing public assistance to persons receiving Federal entitlement. Eligibility for food stamps and Social Security Income (SSI) pursuant to the U.S.C. and C.F.R. eligibility criteria are the criteria for qualifying for this exception to cable television service common expense. This bill is designed to capture some persons receiving assistance from Federal entitlement. Therefore, the bill does not specify eligibility criteria, instead it references the U.S.C.S., Title XVI of the Social Security Act.

Title XVI of the Social Security Act is a federal program that guarantees a minimum monthly income to every person who is age 65 or older, or disabled, or blind and meets the federal income and asset requirements. See 42 U.S.C.A. §§ 301 et seq.; 1201 et seq.; 1351 et seq.; 1381 et seq. Eligibility for SSI based on resources and income are subject to annual cost of living adjustments and federal wage increases. For example, an aged, blind, or disabled individual without a spouse, whose income (other than excluded income) was not more than \$1,992, and whose resources (other than those excluded) were not more than \$2,000 on January 1, 1989 (for the calendar year), may be determined eligible for the program.

The United States Department of Agriculture determines eligibility and benefit levels for food stamps based upon need and, in doing so, it acts through state agencies such as the Department of Children & Families. See Food Stamp Act of 1977, 7 U.S.C. Secs. 2011 et. seq. Food stamp benefits are granted to households, not individuals. The maximum allowable resources, including liquid and nonliquid resources, of all members

of the family may not exceed \$2,000. See section 414.075, Florida Statutes. There are specified exclusions from the \$2,000 limit. For example, a licensed vehicle needed for an individual subject to the work participation requirement, not to exceed a combined value of \$8,500, and needed for training, employment, or education purposes is excluded.

B. EFFECT OF PROPOSED CHANGES:

This bill adds another category of unit owners to those specified in law who are permitted to discontinue cable television services without incurring any expense. This new category of unit owners consists of those owners receiving supplemental security income under Title XVI of the Social Security Act or food stamps as administered by the Department of Children and Family Services.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill does not increase or reduce rulemaking authority, however, the Department would have to revise its rules regarding cable television services to include the new exemptions and to provide for the type of proof an association will accept to grant the new exemptions.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

See (1) above.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill permits condominium unit owners who receive supplemental security income or food stamps to decline cable television services and to be exempted from the common expense for this service. This will result in the remaining unit owners paying a proportionately higher fee for cable services.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

See a. above. In addition, this bill disallows cable television service companies to collect disconnect fees.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 718.115, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 718.115, F.S., adding another category of unit owners to those specified in law who are permitted to discontinue cable television services without incurring any expense. This new category of unit owners consists of those owners receiving supplemental security income under Title XVI of the Social Security Act or food stamps as administered by the Department of Children and Family Services.

Section 2. Provides that the bill shall take effect October 1 of the year it is enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

According to the Department of Business & Professional Regulation, Rule 61B-23.0051, Florida Administrative Code, will need to be amended to include the new exemptions and to identify the type of proof an association will accept to grant the new exemptions.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Unit owners in associations where one or more unit owners are exempted from paying the cable television expense portion of their assessments will be impacted. The remaining unit owners who are obligated to pay for the cable television expense will pay a greater amount. The amount they will pay will be determined by equally dividing the total cable television expense among those unit owners who are not exempt.

2. Direct Private Sector Benefits:

Those unit owners who are receiving supplemental security income or food stamps will not have to receive and pay for cable television services.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON REAL PROPERTY & PROBATE:

Prepared by:

Legislative Research Director:

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