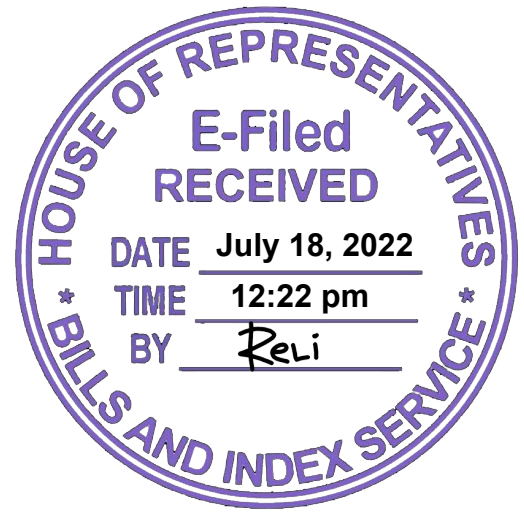


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. 2101



INTRODUCED BY REPRESENTATIVE JURDIN JESUS M. ROMUALDO

EXPLANATORY NOTE

This is a refiled bill originally filed by Representative Xavier Jesus D. Romualdo in the 17th and 18th Congresses and went through Technical Working Group meetings at the Committee on Information and Technology.

The inputs from the various stakeholders were taken into consideration in improving the bill to reflect the real situation on the ground and provide common solutions for the pole owners, pole users, or attaching entities.

There is a need to institutionalize the pole attachment fees and allied fees through a regulatory body to be known as the Pole Attachment Board to ensure healthy competition and adequate protocols are observed for the safety of the general public including tangible assets located near these poles and its attachments avoid disadvantageous dealings.

The right to attach cables, wires and related materials for the transmission of cable signals, internet or telecommunication signals is authorized but the pole owners also have the right to refuse when the attachments are below standards and can affect the integrity of their existing poles and will also result to disruption of their services to their clients. Certain responsibilities, safety standards and generally accepted technical engineering protocols shall be complied with by both the pole owners and pole attaching entities.

The Board shall promote healthy competition through a uniform application of rates based on the average price data from the industry for the past three years prior to the enactment of this Act and taking into account current inflationary data during review and updating of these fees.

Business will always find a way to pass on to consumers their investments such as the high cost of pole rentals and capital investments to reach out to their potential subscribers and as a result, subscription fee from various service providers will go up. Congress has to step in and regulate the use of utility poles which currently is by contract agreements between utility owners and the potential attaching agencies. The rates, terms and

conditions of attachments are not that uniform considering that most poles are owned by power distribution utilities, telecommunication providers and there are various local government units that also imposed through ordinances pole fee collections if installation of poles passes through the property of their barangays. Thus, the need to harmonize and provide a uniform standard for exacting these fees with due respect to the rights and obligations of the different stakeholders.

The support of the Members of Congress for the early passage of this measure is earnestly sought.



JURDIN JESUS M. ROMUALDO

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AN ACT
MANDATING ALL UTILITY AND TELECOMMUNICATIONS COMPANIES TO
COMPLY WITH THE REGULATIONS ON THE USE OF UTILITY POLES AND FOR
OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1. Short Title.** - This Act shall be known as the “Safety Standards of
2 Pole Structures Act”.

3
4 **SEC. 2. Declaration of Policy.** - It is hereby declared the policy of the Sate to regulate
5 and ensure the proper use of utility poles, related support structures, and rights of way
6 for the safe and clear transmission of cable television or telecommunications signals, as
7 well as the determine the uniform rates, terms, and conditions for the use of these poles
8 and its permissible attachments.

9
10 It is the intent of the State to support the robust growth of the information and

1 communications industries such as cable television industry, telecommunications
2 industry, and other allied businesses and the electric distribution utilities and allow these
3 business enterprises to serve better their clients and offer their services to a wider
4 audience.

5
6 The State guarantees that that these industries shall comply with existing laws and
7 policies of government regulators and will adhere to generally accepted and widely
8 accepted industry standards of safety and technical engineering principles for the utmost
9 safety and benefit of the general public as well as the safety of tangible assets proximate
10 to these pole structures and their attachments.

11
12 **SEC. 3. Definition of Terms.** – The following terms are defined, as follows:

13 (a) *Attaching Entity* refers to any person, natural or juridical, that makes or maintains
14 a pole attachment for the transmission of electricity or telecommunications signal.

15 (b) *Additional Maintenance Expense* refers to the annual cost directly and exclusively
16 pertaining to preserving the integrity and proper functioning of the pole attachment.

17 (c) *Board* refers to the implementing body created under this Act.

18 (d) *Pole Attachment* refers to the attachment made by an attaching entity to a pole
19 owner's utility pole, related support structure or right of way used or useful, in whole or in
20 part, in the transmission of electricity or telecommunications signal.

21 (e) *Pole Attachment Fee* refers to the amount to be paid by the attaching entity to the
22 pole owner in consideration of the pole attachment privilege payable at the end of every
23 quarter of the year on a per utility pole basis while the attachment is still subsisting and
24 covered by a contract or memorandum of agreement;

25 (f) *Pole Owner* refers to any person, natural or juridical, that owns and/or controls
26 utility poles, related support structures, or rights way used or useful, in the transmission
27 of electricity, or telecommunications signals.

28 (g) *Pole Premium* refers to the amount, equivalent to Fifteen percent (15%) of the

1 additional maintenance expense, payable to the pole owner as premium for the pole
2 attachment.

3 (h) *Utility Pole* refers to a column or post used to support and carry overhead utility
4 lines such as electrical cable, coaxial cable, telephone cable, fiber optic cable, and such
5 other similar cables used to transmit electricity, and telecommunications signals.

6
7 **SEC. 4. Composition of the Pole Structure Board, Principal Office and Staff.** The
8 Board shall be composed be composed of twelve (12) Members with the Secretary of the
9 Department of Public Works and Highways (DPWH) as ex-officio Chairperson. The ex-
10 officio Vice Chairperson shall be the Secretary of the Department of Interior and Local
11 Government (DILG) and ex officio members: Secretaries of the Department of Energy
12 (DOE) and Department of Information and Communications Technology (DICT),
13 Commissioner of the National Telecommunications Commission, Chairperson of the
14 Energy Regulatory Commission (ERC) and the Administrator of the National
15 Electrification Administration (NEA).

16
17 The five members shall be from the representatives of the cable tv industry,
18 telecommunications industry, internet service provider industry, electric cooperative
19 industry and private power distribution utilities. Provided, that the industry associations
20 shall submit a list of three names to represent their industry from which the President of
21 the Philippines shall choose and appoint their representative to the Board. Provided,
22 further, that the nominees companies have been in operation for more than five (5) years
23 and is a consistent member of good standing in the industry. All the chosen industry
24 representatives that will be serving the Board shall have a term of three years and shall
25 be entitled to per diem consistent with existing government laws and guidelines.

26
27 The Secretaries of the DOE, DICT AND Commissioner of NTC, Chairperson of
28 ERC and Administrator of the NEA shall each designate a permanent representative in

1 the Board, who must possess relevant experience. The permanent representative shall
2 be duly authorized to act on or behalf of his or her principal in their absence.

3 The Chairperson shall have voting rights in case of a tie. The Board shall appoint a
4 Board Secretary that will handle among other administrative matters the preparation of
5 the Agenda of Meetings in consultation and approval of the Chairperson.

6
7 The Board shall have a coterminous staff consistent with existing organizational
8 standards and compensation package to assist them in their work and may hold office in
9 the Department of Interior and Local Government – Central Office for better coordination
10 with the Members of the Board and various stakeholders.

11
12 **SEC. 5. Powers of the Board.** – The Board shall have the following powers:

13 1.) To regulate pole attachment fees;

14 2.) To cause the periodic inspection of pole attachments and determine the integrity
15 of the pole and attached structures;

16 3.) To order the removal of dangling wires and cables and limit the allowed
17 attachments based on the pole weight capacity, pole lifespan, safety, and structural
18 integrity;

19 4.) To direct the compliance of safety and technical standards by pole owners and
20 pole attaching entities;

21 5.) To settle disputes between the pole owner and the attaching entity relating to the
22 actual number of utility poles utilized, pole attachment fee per annum, and other issues
23 that may arise in the implementation of this Act and related existing laws and government
24 policies;

25 5.) To coordinate and collaborate with various government agencies and private
26 sector entities to fully implement a harmonize pole fee scheme to avoid additional fees
27 and rates from these agencies which can further burden pole owners and pole attaching
28 agencies;

1 6.) To impose penalties for non-compliance with any provisions of this Act and its
2 implementing rules and regulations; and

3 7.) To perform such act as necessary and consistent with this Act for better
4 implementation.

5
6 **SEC. 6. Formula for the Pole Attachment Fee.** – The pole attachment fee shall be
7 based on a formula adopted the Board taking into account and reference the average
8 industry pricing standards and current inflationary data in the past three (3) years from
9 the approval of this Act. This amount shall be subject to review after two (2) years from
10 the approval of this Act and thereafter updated taking into account industry sentiments
11 and factoring inflationary settings. Provided, that the pole premium is peg at 10% of the
12 additional maintenance fee which will be uniformly imposed to all pole owners and pole
13 attaching entities and shall be adjusted by the Board every three (3) years from the
14 approval of this Act.

15
16 Provided, however, that the pole owner or the attaching entity, may dispute before
17 the Board the said amount and rates by presenting sufficient and competent evidence.
18 The Board shall issue the appropriate fees to guide all stakeholders and duly published
19 in their website.

20
21 The final number of utility poles considered and computed for collection of pole
22 attachment fees shall be number of utility poles validly occupied and used with
23 attachments by the attaching agency excluding validly denied pole attachments by the
24 pole owners. Any dispute relating to the actual number of utility poles for which pole
25 attachment fees are payable may be brought before the Board.

26
27 **SEC. 7. Nondiscriminatory Access.** — A pole owner shall provide and maintain
28 nondiscriminatory access to all utility poles and related support structures under its

1 ownership and its corresponding rights of way in exchange for the payment a pole
2 attachment fee based on uniform standards applicable to all attaching entities, including
3 its own affiliates or subsidiaries. For this purpose, the pole owner shall submit to the Board
4 a copy of all pole attachment contracts it has entered into to determine compliance with
5 the provisions of this Act.

6
7 Provided, that, a pole owner may validly deny in writing a pole attachment request
8 or application to its utility pole or related support structure based on standards of safety,
9 industry practices or generally accepted technical engineering principles. Provided
10 further, that in case a pole owner validly denies a pole attachment, or removes the same
11 due to an emergency or related nature and thereafter, the reason for such denial or
12 removal ceases to exist, or in the event additional capacity becomes available for a pole
13 attachment, the pole owner shall be bound to offer such additional capacity to the previous
14 attaching entity prior to offering it to other interested applicants or to the one affected by
15 such denial or refusal.

16
17 Provided, furthermore, that pole owners shall issue a written notice to the attaching
18 entity or entities of any removal of its attachments that are not due to an emergency citing
19 valid reasons thereto. The attaching agency shall be given a period of five (5) days to
20 remove their pole attachments upon receipt of the written notification.

21
22 **SEC. 8. Rights and Responsibilities of the Pole Owner and the Attaching Entities**

23 – The pole owners and the attaching entities shall have the following additional rights and
24 responsibilities:

25 (a) Attaching entities shall, at their expense, may modify and remove pole attachments
26 with sufficient notification and coordination to the pole owner so as not to affect the
27 services of the pole owner to their clients and ensure the safety of its pole structures.

28 They shall make, modify and remove the pole attachments in a manner that preserves

1 the integrity and proper functioning of the utility poles, related support structures and
2 rights of way.

3 (b) Pole owners shall be responsible for the maintenance, replacement of the rights
4 of way, utility poles, and related support structures and shall ensure the integrity and
5 proper functioning of the pole attachments.

6 (c) Both the attaching entities and the pole owners shall ensure the proper bundling
7 and installation and maintenance of the cables to prevent them from dangling. Within 5
8 days from notice from the Board, the attaching entities or owners of the cable lines shall
9 fix or remove the dangling wires identified by the Board.

10 (d) Pole owners and attaching entities shall ensure to maintain and adhere to the
11 safety standards and proper usage of pole structures depending on its kind, description,
12 and capacity limit including location.

13 (e) Both the attaching entities and the pole owners shall maintain qualified personnel
14 that will be responsible for the inspection, maintenance and repair of these pole structures
15 and attachments to ensure that damages to the pole structures and their attachments can
16 be properly fixed, repaired or replaced with dispatch for the safety of the general public.

17
18 **SEC. 9. Non-availability of Utility Poles, Related Support Structures and Rights**
19 **of Way** - In case utility poles, related support structures and/or rights of way used or
20 useful, in whole or in part, in the transmission of TV or telecommunications signals are
21 not available for attachment, legitimate cable TV operators and telecommunications
22 companies shall have the option to secure and use their own utility poles provided the
23 following requirements are complied with:

24 (a) That the said utility poles, related support structures and rights of way shall be
25 secured and used by legitimate cable TV operators and telecommunications companies
26 at their own cost and responsibility including proper maintenance;

1 (b) That the said utility poles, related support structures and rights of way shall be
2 secured and inspected with due reference to the recognized standards of safety, industry
3 practices and generally accepted technical engineering principles.

4 (c) That the said utility poles, related support structures and rights of way shall be
5 covered by the same pole attachment rules and regulations of this Act.

6
7 **SEC. 10. *Penalty for Violation.*** – A fine of not less than Two hundred thousand pesos
8 (₱200,000.00) but not more than Five hundred thousand pesos (₱ 500,000.00) shall be
9 imposed for non-compliance of any provision of this Act by erring pole owners or pole
10 attaching agencies, or third party providers or juridical entities.

11 Unpaid fines for two (2) consecutive violations despite due notice shall be a ground
12 for the cancellation or revocation of the business permits and licenses to operate of pole
13 owner and pole attachment entities.

14 The Board may direct the filing of appropriate cases for noncompliance and disregard
15 of their order despite observance of due process and proper notification.

16
17 **SEC. 11. *Implementing Rules and Regulations.*** — Within sixty (60) days from the
18 effectivity of this Act, the Secretaries of DPWH, DILG, DICT, DOE, the Commissioner of
19 NTC, the Chairperson of the ERC and Administrator of NEA or their authorized
20 representatives preferably their Undersecretaries or of equivalent rank in consultation
21 with industry stakeholders shall draft and implement the rules and regulations of this Act.

22
23 **SEC. 12. *Appropriations*** — The amount necessary to carry out the provisions of this
24 Act shall be provided in the General Appropriations Act of the year of its enactment into
25 law. Thereafter, the expenses for its continued implementation shall be included in the
26 subsequent General Appropriations Act.

1 **SEC. 13. *Transitory Provision.*** - Pertinent acts and contracts entered into prior to
2 the effectivity of this shall be governed by the law in force at the time of their execution or
3 perfection, as the case may be: *Provided*, that any revocation, modification, or novation
4 made after the effectivity of this Act shall be subject to the provisions of this Act.

5
6 **SEC. 14. *Separability Clause.*** — If any provision or part of this Act is declared invalid
7 or unconstitutional, all other provisions not affected thereby shall remain in full force and
8 in effect.

9
10 **SEC. 15. *Repealing Clause.*** — All laws, decrees, executive orders and issuances,
11 proclamations, rules and regulations, and other issuances or parts thereof that are
12 inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

13
14 **SEC. 16. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication
15 in the Official Gazette or a newspaper of general circulation.

16
17 Approved.
18
19
20