

SENATE No. 1508

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the temporary relocation of utility wires..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 39 of Chapter 166 of the General Laws, as appearing in the 2004
2 Official Edition, is hereby amended by striking out Section 39 and inserting in place thereof the
3 following section:-

4 §39 Temporary removal of wires and supporting fixtures.

5 (a) Whenever, in order to move a building or for any other necessary purpose, a person
6 desires that the pipes, mains, poles, wires, conduits or fixtures of a public utility be cut,
7 disconnected, or removed, the person which desires the cutting, disconnection, or removal of
8 pipes, mains, poles, wires, conduits or fixtures of a public utility shall give written notification
9 thereof to the department of telecommunications and energy and the utility company no later
10 than thirty days prior to the proposal date of the move. The written notification must contain the
11 location of the site where the structure is presently located, the location of the final destination of
12 the structure, the path of the proposed move, described in reference to the crossings of streets or
13 highways, and the date of the required cutting, disconnection or removal. The public utility shall
14 not be responsible for any more than five thousand dollars in costs associated with the cutting,

15 disconnecting, or removing of the pipes, mains, poles, wires, conduits, or fixtures, unless the
16 department of telecommunication and energy, after notice and a public hearing considers the
17 following factors and so orders. The factors to be considered are:(1) Whether the building to be
18 moved is to be used as affordable housing for low and moderate income persons;(2) The
19 replacement value of the building once moved and rehabilitated;(3) The historic value of the
20 building;(4) The fiscal cost of the building, move and rehabilitation;(5) The public expense
21 involved in the move, including utility costs, state and city labor costs including police and any
22 other public funds or expense required to move and rehabilitate the building;(6) The potential
23 damage to roads, trees or buildings; and(7) The disruption of utility service and street use and the
24 expense to others who are inconvenienced by the loss of utility services and/or use of roads or
25 buildings.

26 (b) If the person which desires the cutting, disconnection, or removal of pipes, mains,
27 poles, wires, conduits, or fixtures requests a public hearing, it shall be held no later than twenty-
28 one (21) days prior to the proposed move. Notice of the proposal and the hearing shall be placed
29 primarily in at least ten (10) locations in each mile on the proposed route and shall be mailed to
30 the chief executive officer of every city or town on the route, and each city or town council
31 person whose district includes any portion of the route. In addition, the department of
32 telecommunications and energy shall provide such other notice as required by law and that is
33 usually given for public hearings of the department of telecommunications and energy. The cost
34 of the notices required by this section shall be paid by the applicant.

35 (c) If after hearing, and considering each of the factors above, the department of
36 telecommunications and energy finds that the public benefit, including the factors set out in
37 subsections (1), (2), and (3) above substantially outweighs the fiscal cost, public expense,

38 potential damage and disruption set out in subsections (4), (5), (6) and (7) above. The department
39 of telecommunications and energy may order that all or part of the utility costs shall be at the
40 utilities' expense and issue such further orders as may be necessary to facilitate the move. In no
41 event shall the department of telecommunications and energy approve any more where the
42 combined cost to the affected utilities exceeds twenty-five thousand dollars.