

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 413:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 44 and 46 of the Official Code of Georgia Annotated, relating to property
2 and public utilities and public transportation, respectively, so as to provide for the regulation
3 of certain matters related to telephone services; to provide for regulation of certain matters
4 pertaining to rural telephone cooperatives; to provide for the donation of abandoned
5 dividends or capital credits by rural telephone cooperatives for certain purposes; to provide
6 for definitions relating to telephone service generally; to provide for venue in proceedings
7 against rural telephone cooperatives; to change certain provisions relating to the bylaws of
8 rural telephone cooperatives; to provide for return of revenues upon the death of a member
9 of a rural telephone cooperative; to change certain definitions regarding the emergency
10 Telephone Number 9-1-1 System; to change certain provisions relating to billing and
11 assessment of telephone subscriber 9-1-1 charges; to provide for related matters; to provide
12 for an effective date; to provide for applicability to certain causes of action; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
16 adding a new Code section to read as follows:

17 "44-12-236.1.

18 (a) As used in the Code section, the term:

19 (1) 'Area' means any county in which a telephone cooperative provides telephone service
20 and any county adjacent thereto.

21 (2) 'Telephone cooperative' shall have the same meaning as provided for the term
22 'cooperative' in Code Section 46-5-62.

23 (3) 'Telephone service' shall have the same meaning as provided for in Code
24 Section 46-5-62.

26 (b) All patronage dividends or capital credits held by a telephone cooperative that are
 27 presumed abandoned pursuant to this article in a given calendar year may, in lieu of
 28 payment of delivery to the commissioner pursuant to this article, be donated to a nonprofit
 29 organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code
 30 that supports education or economic development in the area if the telephone cooperative
 31 has:

32 (1) Maintained for at least six months on the telephone cooperative's website or on a
 33 public posting in the telephone cooperative's main office, a list of the names and last
 34 known addresses of all owners of property held by the telephone cooperative that have
 35 been presumed abandoned, together with instructions on how to claim such property; and
 36 (2) Published in the legal organ in the county in which the telephone cooperative's main
 37 office is located notice of the last date to claim property that has been presumed
 38 abandoned. Such notice shall be published within three to six months prior to the last
 39 date to claim the property and shall state that the names of the owners may be found at
 40 the telephone cooperative's website or main office."

41 **SECTION 2.**

42 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
 43 transportation, is amended by adding a new Code section to read as follows:

44 "46-5-64.1.

45 (a) Venue in proceedings against a cooperative shall be determined in accordance with the
 46 Constitution of Georgia and this Code section.

47 (b) Unless otherwise required by the Constitution of Georgia, a cooperative may be sued
 48 only in the county of its residence, as described below:

49 (1) Each cooperative authorized to transact business in this state shall be deemed to
 50 reside in the county where its registered office is maintained. If any such cooperative
 51 fails to maintain a registered office, it shall be deemed to reside in the county in this state
 52 where its last named registered office or principal office, as shown by the records of the
 53 Secretary of State, was maintained;

54 (2) Each cooperative authorized to transact business in this state shall be deemed to
 55 reside and may be sued on contracts in the county in which the contract sought to be
 56 enforced was made or is to be performed, if it has an office and transacts business in that
 57 county; or

58 (3) Each cooperative authorized to transact business in this state shall be deemed to
 59 reside, and may be sued for damages because of torts, wrong, or injury done, in the
 60 county where the cause of action originated, if it has an office and transacts business in
 61 that county."

62 **SECTION 3.**

63 Said title is further amended by revising Code Section 46-5-78, relating to bylaws of
64 cooperative generally, as follows:

65 "46-5-78.

66 The board of directors shall adopt the first bylaws of a cooperative to be adopted following
67 an incorporation, conversion, combined consolidation and conversion, merger, or
68 consolidation. Thereafter, the board of directors shall have the power to alter, amend, or
69 repeal the bylaws, or adopt new bylaws, unless such power is reserved exclusively to the
70 members by this part, the articles of incorporation, or bylaws previously adopted by the
71 members; provided, however, that any bylaws adopted by the board of directors may be
72 altered, amended, or repealed and new bylaws may be adopted by the members. The
73 members may prescribe that any bylaws adopted by them shall not be altered, amended,
74 or repealed by the board of directors. The members shall may adopt, amend, or repeal the
75 bylaws by the affirmative vote of a majority of those members voting thereon at a meeting
76 of the members. The bylaws shall set forth the rights and duties of members, directors, and
77 shareholders, if any, and may contain other provisions for the regulation and management
78 of the affairs of the cooperative not inconsistent with this part or with its articles of
79 incorporation."

80 **SECTION 4.**

81 Said title is further amended by adding a new Code section to read as follows:

82 "46-5-92.1.

83 (a) Unless the bylaws otherwise provide, upon the death of a member or former member
84 who is a natural person, the board of directors shall have authority, but shall not be
85 required, to pay revenues allocated but not previously paid to that member or former
86 member.

87 (b) If the member or former member dies testate, such payments shall be made to the
88 person who is the executor of the estate of the decedent at the time of the payment.

89 (c) If the member or former member dies intestate and the cooperative is provided a copy
90 of letters of administration for the estate of the decedent, such payments shall be made to
91 the administrator of the estate named therein.

92 (d) If the member or former member dies intestate and the cooperative is not provided a
93 copy of letters of administration of the estate of the deceased and such payment
94 is \$2,500.00 or less, such payment shall be made to the persons listed below and according
95 to the priority indicated:

96 (1) To the surviving spouse of the decedent;

97 (2) If no surviving spouse, then to the surviving children of the decedent, pro rata;

- 98 (3) If no surviving children, then to the surviving mother and father of the decedent,
 99 pro rata; or
- 100 (4) If no surviving parent, then to the surviving brothers and sisters of the decedent,
 101 pro rata.
- 102 (e) If the member or former member dies intestate and the cooperative is not provided a
 103 copy of the letters of administration and such payment is greater than \$2,500.00, such
 104 payment shall be made to the person entitled thereto under the laws of descent and
 105 distribution of this state.
- 106 (f) Payment to the persons listed in subsections (b) through (e) of this Code section shall
 107 operate as a complete acquittal and discharge to the cooperative from any action, claim, or
 108 demand of whatever nature for the amount so paid by any heir, distributee, or creditor of
 109 the decedent or any other person. Payment to such persons is authorized to be made as
 110 provided in subsections (d) and (e) of this Code section without the administration of the
 111 estate of the decedent and without the necessity of obtaining an order that no administration
 112 is necessary."

113 SECTION 5.

114 Said title is further amended by revising paragraphs (7), (16.1), (17), and (17.1) of Code
 115 Section 46-5-122, relating to definitions regarding the Emergency Telephone Number 9-1-1
 116 System, as follows:

117 "(7) 'Exchange access facility' means the access from a particular telephone subscriber's
 118 premises to the telephone system of a service supplier. Exchange access facilities include
 119 service supplier provided access lines, PBX trunks, and Centrex network access registers,
 120 all as defined by tariffs of the telephone companies as approved by the Georgia Public
 121 Service Commission or, in the case of detariffed services, as defined in publicly available
 122 guidebooks or other publicly available service supplier publications. The term 'exchange
 123 access facility' also includes Voice over Internet Protocol service suppliers and any other
 124 communication, message, signal, or information delivery system capable of initiating
 125 a 9-1-1 emergency call. Exchange access facilities do not include service supplier owned
 126 and operated telephone pay station lines, Wide Area Telecommunications Services
 127 (WATS), Foreign Exchange (FX), or incoming only lines."

128 "(16.1)(A) 'Telephone service' means any method by which a 9-1-1 emergency call is
 129 delivered to a public safety answering point. ~~The term 'telephone service' shall include~~
 130 ~~local~~ Such term shall include exchange ~~telephone service~~ access facilities or other
 131 telephone communication service, wireless service, ~~prepaid wireless service~~, mobile
 132 telecommunications service, computer service, Voice over Internet Protocol service, or

133 any technology that delivers ~~or is required by law to deliver~~ a call to a public safety
134 answering point that:

135 (i) Is capable of contacting and has been enabled to contact a public safety answering
136 point via a 9-1-1 system by entering or dialing the digits 9-1-1;

137 (ii) Is a telecommunications service as such term is defined by paragraph (39) of
138 Code Section 48-8-2; and

139 (iii) Is neither a prepaid calling service as such term is defined in paragraph (22) of
140 Code Section 48-8-2 nor a prepaid wireless calling service as such term is defined in
141 paragraph (25) of Code Section 48-8-2.

142 (B) When a service supplier provides to the same person, business, or organization the
143 voice channel capacity to make more than one simultaneous outbound call from an
144 exchange access facility, then each such separate simultaneous outbound call voice
145 channel capacity, regardless of technology, shall constitute a separate telephone service.

146 (C) When the same person, business, or organization has several wireless telephones,
147 each wireless telecommunications connection shall constitute a separate telephone
148 service.

149 (D) A broadband connection used for telephone service shall not constitute a separate
150 voice channel capacity subscription for purposes of the 9-1-1 charge.

151 (17) 'Telephone subscriber' means a person or entity to ~~whom~~ which retail telephone
152 service, either residential or commercial, is provided. ~~When the same person, business,~~
153 ~~or organization has several telephone access lines, each exchange access facility shall~~
154 ~~constitute a separate subscription. When the same person, business, or organization has~~
155 ~~several wireless telephones, each wireless telecommunications connection shall constitute~~
156 ~~a separate connection.~~

157 (17.1) 'Voice over Internet Protocol service' ~~means~~ includes any technology that permits
158 a voice conversation using a voice connection through any device to a computer, whether
159 through a microphone, a telephone, or other device, ~~which that~~ sends a digital signal over
160 the Internet or in Internet Protocol through a broadband connection to be converted back
161 to the human voice at a distant terminal and that delivers ~~or is required by law to deliver~~
162 a call to a public safety answering point. Voice over Internet Protocol service shall also
163 include interconnected Voice over Internet Protocol service, which is service that enables
164 real-time, two-way voice communications, requires a broadband connection from the
165 user's location, requires Internet protocol compatible customer premises equipment, and
166 allows users to receive calls that originate on the public service telephone network and
167 to terminate calls to the public switched telephone network."

SECTION 6.

Said title is further amended by revising subparagraph (a)(1)(A) of Code Section 46-5-134, relating to billing of subscribers, liability of subscriber for service charge, taxes on service, establishment of Emergency Telephone System Fund, records, and use of funds, as follows:

"(a)(1)(A)(i) ~~The~~ Unless exempt, the telephone subscriber of any telephone service ~~may~~ shall be billed for the monthly 9-1-1 charge, if any, imposed with respect to such telephone service by the service supplier. Such 9-1-1 charge ~~may not exceed~~ shall be \$1.50 per month per telephone service provided to the telephone subscriber except as reduced pursuant to paragraph (5) of subsection (d) of this Code section. ~~In the event that any telephone service supplier, due to its normal billing practices, is unable to charge differing amounts set by each local government as the 9-1-1 charge, such telephone service supplier shall collect on behalf of local governments that have authorized a 9-1-1 charge \$1.50 per month per telephone service provided to the telephone subscribers to whom it provides telephone service in every area served by the emergency 9-1-1 system.~~

(ii) In computing the amount due under this subsection, the number of 9-1-1 charges a telephone subscriber shall be assessed shall not exceed the number of simultaneous outbound calls that can be made from voice channels the service supplier has activated and enabled. For telephone service that provides to multiple locations shared simultaneous outbound voice channel capacity configured to and capable of accessing a 9-1-1 system in different states, the monthly 9-1-1 charge shall be assessed only for the portion of such shared voice channel capacity in Georgia as identified by the service supplier's books and records. In determining the portion of the shared capacity in the state, a service supplier may rely on, among other factors, a customer's certification of its allocation of capacity in Georgia, which may be based on each end user location, the total number of end users, and the number of end users at each end user location."

SECTION 7.

(a) Except as provided in subsection (b) of this section, this Act shall become effective on July 1, 2017.

(b) Sections 5 and 6 of this Act shall become effective on January 1, 2018. The provisions of Section 5 and Section 6 of this Act shall not in any manner diminish, extinguish, reduce, or affect any cause of action for audits or the recovery of funds from service providers which arose prior to January 1, 2018. Any such cause of action is expressly preserved.

SECTION 8.

All laws and parts of laws in conflict with this Act are repealed.