

## House Bill 887

By: Representatives Powell of the 171<sup>st</sup>, England of the 116<sup>th</sup>, Watson of the 172<sup>nd</sup>, Parsons of the 44<sup>th</sup>, Jackson of the 128<sup>th</sup>, and others

## A BILL TO BE ENTITLED

## AN ACT

1 To amend Titles 36, 38, 46, 48, and 50 of the Official Code of Georgia Annotated, relating  
 2 to local government, military, emergency management, and veteran affairs, public utilities  
 3 and public transportation, revenue and taxation, and state government respectively, so as to  
 4 facilitate and incentivize adequate and expanded broadband and other communications  
 5 services throughout the state; to specifically authorize municipal corporations to provide  
 6 broadband services; to establish certification of certain counties and municipal corporations  
 7 as broadband ready communities; to provide for duties and responsibilities of the Georgia  
 8 Emergency Management and Homeland Security Agency; to provide methodology for local  
 9 governments to apply to the agency for certification as a broadband ready community; to  
 10 provide for a model ordinance by the agency; to provide for the OneGeorgia Authority to  
 11 give priority to projects of broadband ready communities; to provide for the director of the  
 12 Georgia Emergency Management and Homeland Security Agency to develop a grant  
 13 program for the provision of broadband services to unserved and underserved areas  
 14 throughout the state; to provide for prioritization and requirements for the awarding of  
 15 grants; to require the development and publication of a map showing the unserved and  
 16 underserved areas in the state; to provide for the promulgation of rules and regulations; to  
 17 specifically authorize electric membership corporations and their affiliates and subsidiaries  
 18 to provide emerging communications technologies; to provide for consolidated and  
 19 simplified state and local excise taxes on communications services, including broadband  
 20 services, in lieu of certain other state or local taxes, charges, or fees on such services; to  
 21 provide for comprehensive procedures, conditions, and limitations; to provide for powers,  
 22 duties, and authority of the Department of Revenue and the state revenue commissioner; to  
 23 simplify and provide uniformity in franchise fees for nonexclusive access and use of state  
 24 and local public rights of way; to provide for definitions; to provide for uniform rates for  
 25 activities of communications services providers within a public right of way; to provide for  
 26 uniform rates for collocations on utility poles and wireless support structures; to provide for  
 27 legislative findings and intent; to provide short titles; to provide for related matters; to

28 provide for effective dates and applicability; to repeal conflicting laws; and for other  
29 purposes.

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

31 **PART I**  
32 **SECTION 1-1.**

33 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
34 by revising Chapter 46, which was previously reserved, as follows:

35 "CHAPTER 46

36 36-46-1.

37 As used in this chapter, the term 'broadband services' means a wired or wireless service that  
38 consists of the capability to transmit at a rate not less than 10 megabits per second in the  
39 downstream direction and at least 1 megabit per second in the upstream direction to end  
40 users and in combination with such service provides:

- 41 (1) Access to the Internet; or  
42 (2) Computer processing, information storage, or protocol conversion.

43 For purposes of this chapter, broadband services shall not include any information content  
44 or service applications provided over such access service nor any intrastate service that was  
45 subject to a tariff in effect as of September 1, 2005.

46 36-46-2.

47 A municipal corporation shall be authorized to provide broadband services:

- 48 (1) Within its corporate limits; or  
49 (2) Outside its corporate limits:  
50 (A) Within the county in which it is located; and  
51 (B) Outside of the county in which it is located, provided there is an intergovernmental  
52 agreement with the political subdivision with which it provides such broadband  
53 services."

54 **PART II**

55 **SECTION 2-1.**

56 Title 38 of the Official Code of Georgia Annotated, relating to military, emergency  
57 management, and veterans affairs, is amended by adding a new article to read as follows:

58 "ARTICLE 12

59 38-3-180.

60 As used in this article, the term:

61 (1) 'Agency' means the Georgia Emergency Management and Homeland Security  
62 Agency as established by Code Section 38-3-20.

63 (2) 'Broadband network project' means any wired or wireless Internet access deployment  
64 that has the capability of transmitting data at a rate of at least 10 megabits per second in  
65 the downstream direction and at least 1 megabit per second in the upstream direction to  
66 end users.

67 (3) 'Broadband services' means the provision of wired or wireless access to the Internet  
68 or computer processing, information storage, or protocol conversion. For the purposes  
69 of this article, the term shall not include any information content or service applications  
70 provided over such access service nor any intrastate service that was subject to a tariff in  
71 effect as of September 1, 2005.

72 (4) 'Broadband services provider' means any provider of broadband services or a public  
73 utility that builds or owns a broadband network project.

74 (5) 'Political subdivision' means a county, municipal corporation, or consolidated  
75 government.

76 38-3-181.

77 (a) A political subdivision may apply to the agency for certification as a broadband ready  
78 community. The agency shall by rules and regulations prescribe the form and manner for  
79 making an application. The agency shall prescribe by rules and regulations a process for  
80 public notice and comment on an application for a period of at least 30 days after the  
81 application is received, except that such process shall not apply to an application by a  
82 political subdivision that enacts a model ordinance developed by the agency under Code  
83 Section 38-3-182.

84 (b) The agency shall approve an application and certify a political subdivision as a  
85 broadband ready community if the agency determines that the political subdivision has  
86 enacted an ordinance that complies with Code Section 38-3-182. If the process for public

87 notice and comment applies to an application, the agency shall, before approving the  
88 application, consider any public comments made regarding such application.

89 38-3-182.

90 (a) A political subdivision shall not be certified as a broadband ready community unless  
91 such political subdivision enacts an ordinance for reviewing applications and issuing  
92 permits related to broadband network projects that provides for all of the following:

93 (1) Appointing a single point of contact for all matters related to a broadband network  
94 project;

95 (2) Requiring such political subdivision to determine whether an application is complete  
96 and notifying the applicant about such determination in writing within a certain time  
97 period after receiving such application; provided, however, that any delay in the  
98 processing of an application that is outside the control of such political subdivision and  
99 that is directly caused by or attributable to a natural disaster, a state of emergency, a  
100 mandated federal review or approval, another political subdivision's review or approval,  
101 or through fault of the applicant shall not count toward the days allotted within such time  
102 period;

103 (3) If the political subdivision receives an application that is incomplete, requiring the  
104 written notification provided for under paragraph (2) of this subsection to specify in detail  
105 the required information that is incomplete;

106 (4) If such political subdivision does not make the written notification required under  
107 paragraph (2) of this subsection, requiring such political subdivision to consider an  
108 application to be complete;

109 (5) Within a certain time period after receiving an application that is complete, requiring  
110 such political subdivision to approve or deny such application and provide the applicant  
111 notification in writing of such approval or denial;

112 (6) That any fee imposed by such political subdivision to review an application, issue a  
113 permit, or perform any other activity related to a broadband network project shall be  
114 reasonable and cost based; and

115 (7) Any other information or specifications as may be required by the agency by rules  
116 and regulations.

117 (b) The agency shall develop a model ordinance that complies with subsection (a) of this  
118 Code section for a political subdivision to use to review applications and issue permits  
119 related to broadband network projects.

120 (c) If a political subdivision enacts an ordinance that differs from the model ordinance  
121 developed by the agency, the political subdivision shall, when applying for certification

122 under Code Section 38-3-181, provide the agency with a written statement that describes  
 123 the ordinance and how the ordinance differs from the model ordinance.

124 38-3-183.

125 A political subdivision that the agency has certified as a broadband ready community under  
 126 Code Section 38-3-181 shall not:

127 (1) Impose an unreasonable or noncost based fee to review an application or issue a  
 128 permit for a broadband network project. Any application fee that exceeds \$100.00 shall  
 129 be considered unreasonable unless the political subdivision can provide documentation  
 130 justifying such fee based on a specific cost;

131 (2) Impose a moratorium of any kind on the approval of applications or issuance of  
 132 permits for broadband network projects or on construction related to broadband network  
 133 projects;

134 (3) Discriminate among providers of telecommunications services or public utilities with  
 135 respect to any action described in this article or otherwise related to a broadband network  
 136 project, including granting access to public rights of way, infrastructure and poles, river  
 137 and bridge crossings, or any other physical assets owned or controlled by such political  
 138 subdivision; or

139 (4) As a condition for approving an application or issuing a permit for a broadband  
 140 network project or for any other purpose, require the applicant to:

141 (A) Provide any service or make available any part of the broadband network project  
 142 to such political subdivision; or

143 (B) Except for reasonable and cost based fees allowed, make any payment to or on  
 144 behalf of such political subdivision.

145 38-3-184.

146 (a) Upon the request of a broadband services provider, the agency may decertify a political  
 147 subdivision as a broadband ready community if such political subdivision fails to comply  
 148 with or modifies the ordinance required for certification under Code Section 38-3-182 or  
 149 violates Code Section 38-3-183.

150 (b) Upon a complaint that an application fee under an ordinance required for certification  
 151 under Code Section 38-3-182 is unreasonable, the agency shall determine whether or not  
 152 such fee is reasonable. In the proceeding for making such determination, the political  
 153 subdivision shall have the burden of proving the reasonableness of any function undertaken  
 154 by such political subdivision as part of the application process and the reasonableness of  
 155 the costs of such functions.

156 38-3-185.

157 A broadband network project targeting industry development or construction of a new  
 158 building for which a political subdivision that has been certified as a broadband ready  
 159 community under Code Section 38-3-181 is seeking financing from the OneGeorgia  
 160 Authority, pursuant to Chapter 34 of Title 50, shall be given priority by the OneGeorgia  
 161 Authority.

162 38-3-186.

163 The agency shall promulgate any reasonable and necessary rules and regulations to  
 164 effectuate the provisions of this article."

165 **PART III**

166 **SECTION 3-1.**

167 Said Title 38 is further amended in Code Section 38-3-20, relating to Georgia Emergency  
 168 Management and Homeland Security Agency created, director, staff, offices, director's  
 169 duties, and disaster coordinator, by adding a new subsection to read as follows:

170 "(g) The director of emergency management and homeland security shall also have such  
 171 additional authority, duties, and responsibilities authorized and described in Article 13 of  
 172 this chapter."

173 **SECTION 3-2.**

174 Title 38 is further amended by adding a new article to read as follows:

175 "ARTICLE 13

176 38-3-190.

177 As used in this article, the term, 'broadband services' means the provision of wired or  
 178 wireless access to the Internet or computer processing, information storage, or protocol  
 179 conversion. For the purposes of this article, the term shall not include any information  
 180 content or service applications provided over such access service nor any intrastate service  
 181 that was subject to a tariff in effect as of September 1, 2005.

182 38-3-191.

183 (a) On or before July 1, 2019, the director of emergency management and homeland  
 184 security shall develop the 'Georgia Reverse Auction Broadband Deployment Program,' to  
 185 provide funding to providers of broadband services who request the least amount of money

186 to offer broadband services in unserved areas or underserved areas of the state. The goal  
187 of such program shall be to provide broadband services coverage throughout the entire state  
188 consisting of the capability to transmit at a rate of not less than 10 megabits per second in  
189 the downstream direction and at least 1 megabit per second in the upstream direction to end  
190 users. The director of emergency management and homeland security shall determine  
191 those areas in the state that are unserved areas and underserved areas and shall publish such  
192 findings pursuant to Code Section 38-3-193.

193 (b) The program shall consist of a minimum of five rounds of grants, one each year for  
194 five years. The director of emergency management and homeland security shall be  
195 authorized to extend the program for more than five years if unserved areas or underserved  
196 areas still exist in the state.

197 (c) The first round of grants shall be awarded when moneys are appropriated to fund the  
198 awarding of the grant program.

199 (d) The first three rounds of grants shall prioritize unserved areas of the state.

200 (e) Providers of broadband services submitting bids shall receive priority if their plan to  
201 provide broadband services:

202 (1) Includes elements of cooperation with or broadband services enhancement for  
203 businesses; industrial parks; education centers; hospitals and other health care facilities  
204 such as telehealth facilities and emergency care facilities; government buildings; public  
205 safety departments; or other public purposes;

206 (2) Expands broadband services in counties with a lower nonmilitary population than  
207 other counties in the state;

208 (3) Includes an area certified as a broadband ready community as provided in Article 12  
209 of this chapter; or

210 (4) Includes a monetary investment by the provider of broadband services in the  
211 unserved or underserved areas that is equal to or great than the amount of money  
212 requested in the bid, in conjunction with a broadband expansion plan or agreement by  
213 such provider of broadband services with one or more local governments, one or more  
214 commercial or industrial entities, or any combination thereof.

215 (f) Providers of broadband services submitting bids shall be required to disclose as part of  
216 the bidding process whether they are required under any federal law, rule, or regulation to  
217 provide broadband services to any portion of the unserved area or underserved area for  
218 which they are bidding and whether they have received any grants or other funding from  
219 the federal government, the state, or a local government to provide broadband services to  
220 any portion of such area.

221 (g) The director of emergency management and homeland security shall establish the  
222 criteria for determining bid eligibility and any grant terms and conditions that are

223 reasonable and necessary to ensure that the grant funds are utilized to provide broadband  
224 services to the areas for which the grants are awarded; provided, however, that any  
225 provider of broadband services receiving a grant under this article shall be required to  
226 agree:

227 (1) Not to charge more for broadband services to customers in any unserved area or  
228 underserved area for which it receives a grant as it does for the same or similar broadband  
229 services to customers in other areas of the state;

230 (2) To serve any person, home, or business requesting broadband services in any  
231 unserved area or underserved area for which it receives a grant; and

232 (3) To meet or exceed in any unserved area or underserved area for which it receives a  
233 grant a minimum level of dependable service to be established by the director of  
234 emergency management and homeland security.

235 38-3-192.

236 The director of emergency management and homeland security shall ensure that the grant  
237 program complies with any laws or regulations of the Federal Communications  
238 Commission.

239 38-3-193.

240 On or before June 30, 2019, and June 30 of each year thereafter, the director of emergency  
241 management and homeland security shall publish on the website of the Georgia Emergency  
242 Management and Homeland Security Agency a map showing the unserved areas and  
243 underserved areas in the state. All providers of broadband services in the state shall be  
244 required to provide such information as the director of emergency management and  
245 homeland security determines is necessary to develop such a map.

246 38-3-194.

247 Subject to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' the director  
248 of emergency management and homeland security is authorized to promulgate and enforce  
249 such rules and regulations as may be deemed necessary to carry out the provisions of this  
250 article."

251

**PART IV**

252

**SECTION 4-1.**

253 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
 254 transportation, is amended by revising Code Section 46-3-200, relating to purposes of electric  
 255 membership corporations, as follows:

256 "46-3-200.

257 An electric membership corporation may serve any one or more of the following purposes:

258 (1) To furnish electrical energy and service;

259 (2) To assist its members in the efficient and economical use of energy;

260 (3) To engage in research and to promote and develop energy conservation and sources  
 261 and methods of conserving, producing, converting, and delivering energy; ~~and~~

262 (4) To provide and operate emerging communications technologies as provided in Code  
 263 Section 46-5-223; and

264 ~~(4)(5)~~ To engage in any lawful act or activity necessary or convenient to effect the  
 265 foregoing purposes."

266

**SECTION 4-2.**

267 Said Title 46 is further amended by revising Code Section 46-5-221, relating to definitions  
 268 for emerging communications technologies, as follows:

269 "46-5-221.

270 As used in this article, the term:

271 (1) 'Broadband ~~service~~ services' means a wired or wireless service that consists of the  
 272 capability to transmit at a rate not less than ~~200 kilobits~~ 10 megabits per second in ~~either~~  
 273 ~~the upstream or the~~ downstream direction and at least 1 megabit per second in the  
 274 upstream direction to end users and in combination with such service ~~provide~~ provides  
 275 either:

276 (A) Access to the Internet; or

277 (B) Computer processing, information storage, or protocol conversion.

278 For the purposes of this article, broadband ~~service~~ services shall not include any  
 279 information content or service applications provided over such access service nor any  
 280 intrastate service that was subject to a tariff in effect as of September 1, 2005.

281 (1.1) 'Electric membership corporation' or 'EMC' means an electric membership  
 282 corporation organized under this title or any prior electric membership corporation law  
 283 of this state, or a corporation which elected, in accordance with the provisions thereof,  
 284 to be governed by Ga. L. 1937, p. 644, the 'Electric Membership Corporation Act.'

285 (1.2) 'Emerging communications technologies' means broadband services, VoIP, IP  
 286 enabled services, wireless services, and all facilities and equipment associated therewith.

287 (1.3) 'IP enabled services' means any service, capability, functionality, or application that  
 288 enables an end user to send or receive a communication in existing Internet Protocol  
 289 format, or any successor format, regardless of whether the communication is voice, data,  
 290 or video.

291 (2) 'VoIP' means Voice over Internet Protocol services offering real-time multidirectional  
 292 voice functionality utilizing any Internet protocol.

293 (3) 'Wireless ~~service~~ services' means:

294 (A) Commercial ~~commercial~~ mobile radio service carried on between mobile stations  
 295 or receivers and land stations and by mobile stations communicating among  
 296 themselves; or

297 (B) Commercial fixed radio service carried on between or among land stations or  
 298 receivers."

299 **SECTION 4-3.**

300 Said Title 46 is further amended by revising Code Section 46-5-222, relating to commission  
 301 has no authority over setting of rates or terms and conditions for the offering of broadband  
 302 service, voice over Internet protocol, or wireless service, and limitations, as follows:

303 "46-5-222.

304 (a) The Public Service Commission shall not have any jurisdiction, right, power, authority,  
 305 or duty to impose any requirement or regulation relating to the setting of rates or terms and  
 306 conditions for the offering of ~~broadband service, VoIP, or wireless services~~ or provision  
 307 of emerging communications technologies.

308 (b) This Code section shall not be construed to affect:

309 (1) State laws of general applicability to all businesses, including, without limitation,  
 310 consumer protection laws and laws relating to restraint of trade;

311 (2) Any authority of the Public Service Commission with regard to consumer  
 312 complaints; or

313 (3) Any authority of the Public Service Commission to act in accordance with federal  
 314 laws or regulations of the Federal Communications Commission, including, without  
 315 limitation, jurisdiction granted to set rates, terms, and conditions for access to unbundled  
 316 network elements and to arbitrate and enforce interconnection agreements.

317 (c) Except as otherwise expressly provided in this Code section, nothing in this ~~Code~~  
 318 ~~section~~ article shall be construed to restrict or expand any other authority or jurisdiction of  
 319 the Public Service Commission."

320 **SECTION 4-4.**

321 Said Title 46 is further amended by adding a new Code section to read as follows:

322 "46-5-223.

323 An EMC shall be authorized to:

324 (1) Provide and operate emerging communications technologies in any geographic area  
 325 in which the EMC provides retail electric service within this state;

326 (2) Create an affiliate or subsidiary that shall be authorized to provide and operate  
 327 emerging communications technologies in any geographic area in which the EMC  
 328 provides retail electric service within this state;

329 (3) Enter into a partnership with a provider of emerging communications technologies  
 330 to provide and operate emerging communications technologies in any geographic area  
 331 in which the EMC provides retail electric service within this state; and

332 (4) Apply for, accept, repay, and utilize loans, grants, and other financing from the  
 333 federal government, this state, or any department or agency thereof, or from any other  
 334 public or private party, in order to provide funding to assist the EMC or an affiliate or  
 335 subsidiary of the EMC in the planning, engineering, construction, extension, operation,  
 336 repair, and maintenance of emerging communications technologies and facilities which  
 337 the EMC or an affiliate or subsidiary of the EMC shall be authorized to provide under this  
 338 article."

339 **PART V**

340 **SECTION 5-1.**

341 The General Assembly recognizes that the communications industry has become increasingly  
 342 competitive and that the distinctions among the providers of the various types of  
 343 communications services have become blurred. The General Assembly desires to treat  
 344 similar services consistently under the tax laws of this state. Accordingly, the General  
 345 Assembly finds that it is no longer appropriate for the providers of certain types of  
 346 communications services to be required to pay a myriad of local taxes, licenses, and fees  
 347 while other communications services providers are not required to pay some or all of such  
 348 taxes, licenses, and fees. The General Assembly finds, however, that it is in the best interests  
 349 of the state and its political subdivisions that the tax revenues available to such political  
 350 subdivisions not be diminished by the elimination of certain local taxes, licenses, and fees  
 351 imposed on communications services providers and that a state level communications  
 352 services tax imposed equitably on communications services is expected at a minimum to  
 353 provide to each such political subdivision comparable tax revenues to the local taxes,  
 354 licenses, and fees that should be eliminated. The General Assembly further finds that a

355 state-wide communications services tax in lieu of other taxes on communications would  
 356 promote simplicity, uniformity, and efficiency in the administration of and compliance with  
 357 the taxes on communications services which is in the best interests of the state. The General  
 358 Assembly further finds that the sale, purchase, use, or provision of Internet access service  
 359 should not be subject to any tax or fee imposed by this state, or any of its political  
 360 subdivisions, to promote Internet access service availability for all Georgians and to  
 361 encourage deployment of broadband infrastructure to underserved areas of this state.

### 362 SECTION 5-2.

363 This part shall be known and may be cited as the "Georgia Communications Services Tax  
 364 Act."

### 365 SECTION 5-3.

366 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 367 in Code Section 36-76-2, relating to definitions regarding expedited franchising of cable and  
 368 video services, by revising paragraphs (1) and (8) as follows:

369 ~~"(1) 'Advertising and home shopping services revenues' means the amount of a cable~~  
 370 ~~service provider or video service provider's nonsubscriber revenues from advertising~~  
 371 ~~disseminated through cable service or video service and home shopping services. The~~  
 372 ~~amount of such revenues that are allocable to a municipality or county shall be equal to~~  
 373 ~~the total amount of the cable service provider or video service provider's revenue received~~  
 374 ~~from such advertising and home shopping services multiplied by the ratio of the number~~  
 375 ~~of such provider's subscribers located in such municipality or in the unincorporated area~~  
 376 ~~of such county to the total number of such provider's subscribers. Such ratio shall be~~  
 377 ~~based on the number of such provider's subscribers as of January 1 of the current year,~~  
 378 ~~except that in the first year in which services are provided, such ratio shall be computed~~  
 379 ~~as of the earliest practical date Reserved."~~

380 ~~"(8) 'Gross revenues' means all revenues received from subscribers for the provision of~~  
 381 ~~cable service or video service, including franchise fees for cable service providers and~~  
 382 ~~video service providers, and advertising and home shopping services revenues and shall~~  
 383 ~~be determined in accordance with generally accepted accounting principles. Gross~~  
 384 ~~revenues shall not include:~~

385 ~~(A) Amounts billed and collected as a line item on the subscriber's bill to recover any~~  
 386 ~~taxes, surcharges, or governmental fees that are imposed on or with respect to the~~  
 387 ~~services provided or measured by the charges, receipts, or payments therefor; provided,~~  
 388 ~~however, that for purposes of this Code section, such tax, surcharge, or governmental~~  
 389 ~~fee shall not include any ad valorem taxes, net income taxes, or generally applicable~~

390 ~~business or occupation taxes not measured exclusively as a percentage of the charges,~~  
 391 ~~receipts, or payments for services;~~  
 392 ~~(B) Any revenue, such as bad debt, not actually received, even if billed;~~  
 393 ~~(C) Any revenue received by any affiliate or any other person in exchange for~~  
 394 ~~supplying goods or services used by the provider to provide cable service or video~~  
 395 ~~programming;~~  
 396 ~~(D) Any amounts attributable to refunds, rebates, or discounts;~~  
 397 ~~(E) Any revenue from services provided over the network that are associated with or~~  
 398 ~~classified as noncable or nonvideo services under federal law, including, without~~  
 399 ~~limitation, revenues received from telecommunications services, information services~~  
 400 ~~other than cable service or video service, Internet access services, or directory or~~  
 401 ~~Internet advertising revenue, including, without limitation, yellow pages, white pages,~~  
 402 ~~banner advertisements, and electronic publishing advertising. Where the sale of any~~  
 403 ~~such noncable or nonvideo service is bundled with the sale of one or more cable~~  
 404 ~~services or video services and sold for a single nonitemized price, the term 'gross~~  
 405 ~~revenues' shall include only those revenues that are attributable to cable service or video~~  
 406 ~~service based on the provider's books and records; such revenues shall be allocated in~~  
 407 ~~a manner consistent with generally accepted accounting principles;~~  
 408 ~~(F) Any revenue from late fees not initially booked as revenues, returned check fees,~~  
 409 ~~or interest;~~  
 410 ~~(G) Any revenue from sales or rental of property, except such property as the~~  
 411 ~~subscriber shall be required to buy or rent exclusively from the cable service provider~~  
 412 ~~or video service provider to receive cable service or video service;~~  
 413 ~~(H) Any revenue received from providing or maintaining inside wiring;~~  
 414 ~~(I) Any revenue from sales for resale with respect to which the purchaser shall be~~  
 415 ~~required to pay a franchise fee, provided the purchaser certifies in writing that it shall~~  
 416 ~~resell the service and pay a franchise fee with respect thereto; or~~  
 417 ~~(J) Any amounts attributable to a reimbursement of costs including, but not limited to,~~  
 418 ~~the reimbursements by programmers of marketing costs incurred for the promotion or~~  
 419 ~~introduction of video programming Reserved."~~

420 **SECTION 5-4.**

421 Said Title 36 is further amended by revising subsection (c) and paragraphs (4) and (8) of  
 422 subsection (g) of Code Section 36-76-4, relating to application process for a state franchise,  
 423 as follows:

424 "(c) The application for a state franchise shall consist of an affidavit signed by an officer  
 425 or general partner of the applicant that contains each of the following:

- 426 (1) An affirmative declaration that the applicant shall comply with all applicable federal  
 427 and state laws and regulations, including municipal and county ordinances and  
 428 regulations regarding the placement and maintenance of facilities in the public right of  
 429 way that are generally applicable to all users of the public right of way and specifically  
 430 including Chapter 9 of Title 25, the 'Georgia Utility Facility Protection Act';
- 431 (2) A description of the applicant's service area, which description shall be sufficiently  
 432 detailed so as to allow a local government to respond to subscriber inquiries, including  
 433 the name of each municipal or county governing authority within the service area. For  
 434 the purposes of this paragraph, an applicant may, in lieu of or as a supplement to a written  
 435 description, provide a map on 8 1/2 by 11 inch paper that is clear and legible and that  
 436 fairly depicts the service area by making reference to the municipal or county governing  
 437 authority to be served. If the ~~geographical~~ geographic area is less than an entire  
 438 municipality or county, the map shall describe the boundaries of the geographic area to  
 439 be served in clear and concise terms;
- 440 (3) The location of the applicant's principal place of business, the name or names of the  
 441 principal executive officer or officers of the applicant, information concerning payment  
 442 locations or addresses, and general information concerning equipment returns; and
- 443 (4) Certification that the applicant is authorized to conduct business in the State of  
 444 Georgia and that the applicant possesses satisfactory financial and technical capability  
 445 to provide cable service or video service and a description of such capabilities. Such  
 446 certification shall not be required from an incumbent service provider or any cable  
 447 service provider or video service provider that has wireline facilities located in the public  
 448 right of way as of January 1, 2008; ~~and~~
- 449 ~~(5) Notice to the affected local governing authority of its right to designate a franchise~~  
 450 ~~fee pursuant to Code Section 36-76-6."~~
- 451 ~~"(4) An incumbent service provider that elects to terminate a franchise under this~~  
 452 ~~subsection shall continue to provide PEG access support, as such existed on January 1,~~  
 453 ~~2007, under the same terms as the terminated local franchise had it not been terminated~~  
 454 ~~until the local franchise would have expired under its own terms Reserved."~~
- 455 "(8) Each holder of a state franchise shall have the obligation to provide access to the  
 456 same number of PEG channels pursuant to Code Section 36-76-8 ~~and the additional PEG~~  
 457 ~~support cash payments specified in this paragraph for PEG access facilities in a service~~  
 458 ~~area as the incumbent service provider with the most subscribers in such service area as~~  
 459 ~~of January 1, 2007, which obligation shall continue until the local franchise would have~~  
 460 ~~expired under its own terms as specified in paragraph (4) of this subsection; provided,~~  
 461 ~~however, that if a local franchise would have expired before July 1, 2012, the holder of~~  
 462 ~~a state franchise shall continue to provide access to the same number of PEG channels~~

463 until July 1, 2012, as provided in paragraph (5) of this subsection. ~~To the extent such~~  
 464 ~~incumbent service provider provides PEG access support during said period in the form~~  
 465 ~~of periodic payments to the municipal or county governing authority equal to a~~  
 466 ~~percentage of gross revenue or a prescribed per subscriber amount, the state franchise~~  
 467 ~~holder shall be obligated to make the same periodic payments to the governing authority~~  
 468 ~~at the same time and equal to the same percentage of gross revenue or prescribed per~~  
 469 ~~subscriber amount. To the extent such incumbent service provider provides PEG access~~  
 470 ~~support to the applicable governing authority during said period in the form of a lump~~  
 471 ~~sum payment that remains unsatisfied as of January 1, 2008, the holder of a state~~  
 472 ~~franchise shall be obligated to provide a lump sum payment to said authority based on its~~  
 473 ~~proportion of the total number of cable service and video service subscribers of all service~~  
 474 ~~providers in such service area. No payments shall be due under this paragraph until the~~  
 475 ~~municipality or county notifies the respective providers, in writing, of the percentage of~~  
 476 ~~gross revenues, the per subscriber amount, or the lump sum payment amount and the~~  
 477 ~~expiration date of the local franchise obtaining such obligations. The holder of a state~~  
 478 ~~franchise may designate that portion of the subscriber's bill attributable to any fee~~  
 479 ~~imposed pursuant to this paragraph as a separate item on the bill and recover such amount~~  
 480 ~~from the subscriber."~~

481 **SECTION 5-5.**

482 Said Title 36 is further amended by revising Code Section 36-76-6, relating to franchise fees,  
 483 as follows:

484 "36-76-6.

485 (a)(1) ~~The holder of a state franchise, whether a cable service provider or a video service~~  
 486 ~~provider, shall pay to each affected local governing authority which complies with this~~  
 487 ~~Code section a franchise fee which shall not exceed the maximum percentage rate~~  
 488 ~~permitted in 47 U.S.C. Section 542(b) of such holder's gross revenues received from the~~  
 489 ~~provision of cable service or video service to subscribers located within such holder's~~  
 490 ~~service area.~~

491 (2) ~~Each affected local governing authority or its authorized designee shall provide~~  
 492 ~~written notice to the Secretary of State and each applicant for or holder of a state~~  
 493 ~~franchise with a service area located within that affected local governing authority's~~  
 494 ~~jurisdiction of the franchise fee rate that applies to the applicant for or holder of such state~~  
 495 ~~franchise. The applicant for or holder of a state franchise shall start assessing the~~  
 496 ~~franchise fee within 15 days of receipt of written notice from the affected local governing~~  
 497 ~~authority or its authorized designee and shall not be required to pay such franchise fee~~  
 498 ~~until the expiration of 15 days after receipt of such written notice. Any incumbent service~~

499 ~~provider who obtains a state franchise under paragraph (1) of subsection (g) of Code~~  
 500 ~~Section 36-76-4 shall pay its existing franchise fee during the 15-day period after receipt~~  
 501 ~~of written notice of the new fee. The franchise fee rate shall be uniformly applicable to~~  
 502 ~~all cable service providers and video service providers that obtain a state franchise within~~  
 503 ~~the affected local governing authority. For purposes of this Code section, an authorized~~  
 504 ~~designee is an agent authorized by charter or other act of the affected local governing~~  
 505 ~~authority.~~

506 ~~(3) Any affected local governing authority may change the franchise fee applicable to~~  
 507 ~~holders of a state franchise once every two years. The affected local governing authority~~  
 508 ~~or its authorized designee shall provide written notice to the Secretary of State and the~~  
 509 ~~applicants for or holders of a state franchise with a service area within that affected local~~  
 510 ~~governing authority's jurisdiction of the new franchise fee rate. The holder of a state~~  
 511 ~~franchise shall start assessing the new franchise fee within 45 days of receipt of written~~  
 512 ~~notice of the change from the affected local governing authority or its authorized~~  
 513 ~~designee. The franchise fee rate shall be uniformly applicable to all cable service~~  
 514 ~~providers and video service providers that obtain a state franchise within the affected~~  
 515 ~~local governing authority's jurisdiction.~~

516 ~~(b) Such franchise fee shall be paid directly to each affected local governing authority~~  
 517 ~~within 30 days after the last day of each calendar quarter. Such payment shall be~~  
 518 ~~considered complete if accompanied by a statement showing, for the quarter covered by~~  
 519 ~~the payment:~~

520 ~~(1) The aggregate amount of the state franchise holder's gross revenues, specifically~~  
 521 ~~identifying subscriber and advertising and home shopping services revenues under this~~  
 522 ~~chapter insofar as the franchise holder's existing billing systems include such capability,~~  
 523 ~~attributable to such municipality or unincorporated areas of the county; and~~

524 ~~(2) The amount of the franchise fee payment due to such municipality or county.~~

525 ~~In the event that franchise fees are not paid on or before the dates specified above, then the~~  
 526 ~~affected local governing authority shall provide written notice to the franchise holder~~  
 527 ~~giving the cable service provider or video service provider 15 days from the date of the~~  
 528 ~~franchise holder's receipt of such notice to cure any such nonpayment. In the event~~  
 529 ~~franchise fees are not remitted to the affected local government authority postmarked on~~  
 530 ~~or before the expiration of the 15-day cure period, then the holder of the state franchise~~  
 531 ~~shall pay interest thereon at a rate of 1 percent per month to the affected local governing~~  
 532 ~~authority. If the 15-day cure period expires on Saturday, Sunday, or a legal holiday, the~~  
 533 ~~due date shall be the next business day. Moreover, the franchise holder shall not be~~  
 534 ~~assessed interest on late payments if franchise payments were submitted in error to a~~  
 535 ~~neighboring local governing authority.~~

536 ~~(c) Each affected local governing authority may, no more than once annually, audit the~~  
537 ~~business records of the state franchise holder to the extent necessary to ensure payment in~~  
538 ~~accordance with this Code section. For purposes of this subsection, an audit shall be~~  
539 ~~defined as a comprehensive review of the records of the holder of a state franchise. Once~~  
540 ~~any audited period of a state franchise holder has been the subject of a requested audit, such~~  
541 ~~audited period of such state franchise holder shall not again be the subject of any audit. In~~  
542 ~~the event of a dispute concerning the amount of the franchise fee due to an affected local~~  
543 ~~governing authority under this Code section, an action may be brought in a court of~~  
544 ~~competent jurisdiction by an affected local governing authority seeking to recover an~~  
545 ~~additional amount alleged to be due or by a state franchise holder seeking a refund of an~~  
546 ~~alleged overpayment; provided, however, that any such action shall be brought within three~~  
547 ~~years following the end of the quarter to which the disputed amount relates. Such time~~  
548 ~~period may be extended by written agreement between the state issued franchise holder and~~  
549 ~~such affected local governing authority. Each party shall bear the party's own costs~~  
550 ~~incurred in connection with any such examination or dispute. In the event that an affected~~  
551 ~~local governing authority files an action to recover alleged underpayments of franchise fees~~  
552 ~~and a court of competent jurisdiction determines the cable service provider or video service~~  
553 ~~provider has underpaid franchise fees due for any 12 month period by 10 percent or more,~~  
554 ~~the cable service provider or video service provider may be required to pay the affected~~  
555 ~~local governing authority its reasonable costs associated with the audit along with any~~  
556 ~~franchise fee underpayments; provided, however, late payments shall not apply.~~  
557 ~~(d) The statements made pursuant to subsection (b) of this Code section and any records~~  
558 ~~or information furnished or disclosed by a cable service provider or video service provider~~  
559 ~~to an affected local governing authority pursuant to subsection (c) of this Code section shall~~  
560 ~~be exempt from public inspection under Article 4 of Chapter 18 of Title 50.~~  
561 ~~(e) No acceptance of any payment shall be construed as a release or as an accord and~~  
562 ~~satisfaction of any claim an affected local governing authority may have for further or~~  
563 ~~additional sums payable as a franchise fee.~~  
564 ~~(f) Any amounts overpaid by the holder of a state franchise shall be deducted from future~~  
565 ~~franchise payments.~~  
566 ~~(g) The holder of a state franchise may designate that portion of a subscriber's bill~~  
567 ~~attributable to any franchise fee imposed pursuant to this Code section as a separate item~~  
568 ~~on the bill and recover such amount from the subscriber; provided, however, that such~~  
569 ~~separate listing shall be referred to as a 'franchise' or a 'franchise fee.'~~  
570 ~~(h) No affected local governing authority shall levy any additional tax, license, fee,~~  
571 ~~surcharge, or other assessment on a cable service provider or video service provider for or~~  
572 ~~with respect to the use of any public right of way other than the franchise fee authorized~~

573 ~~by this Code section. Nor shall an affected local governing authority levy any other tax,~~  
 574 ~~license, fee, or assessment on a cable service provider or video service provider or its~~  
 575 ~~subscribers that is not generally imposed and applicable to a majority of all other~~  
 576 ~~businesses. The franchise fee authorized by this Code section shall be in lieu of any permit~~  
 577 ~~fee, encroachment fee, degradation fee, or other fee that could otherwise be assessed on a~~  
 578 ~~state issued franchise holder for the holder's occupation or work within the public right of~~  
 579 ~~way; provided, however, that nothing in this Code section shall restrict the right of any~~  
 580 ~~municipal or county governing authority to impose ad valorem taxes, sales taxes, or other~~  
 581 ~~taxes lawfully imposed on a majority of all other businesses within such municipality or~~  
 582 ~~county Reserved.~~"

583 **SECTION 5-6.**

584 Said Title 36 is further amended in Code Section 36-76-10, relating to limitations on  
 585 requirements for state franchise holders, by revising paragraph (4) as follows:

586 "(4) The enactment and enforcement of lawful and reasonable laws and rules and  
 587 municipal or county ordinances and regulations concerning excavation, permitting,  
 588 bonding requirements, indemnification requirements, and placement and maintenance of  
 589 facilities in any public right of way that are generally applicable to all users of any public  
 590 right of way, ~~except to the extent specifically precluded by subsection (h) of Code~~  
 591 ~~Section 36-76-6; and"~~

592 **SECTION 5-7.**

593 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
 594 transportation, is amended by revising Code Section 46-5-1, relating to exercise of eminent  
 595 domain by telephone companies, as follows:

596 "46-5-1.

597 (a)(1) Any telephone company chartered by the laws of this or any other state shall have  
 598 the right to construct, maintain, and operate its lines and facilities upon, under, along, and  
 599 over the public roads and highways and rights of way of this state with the approval of  
 600 the county or municipal authorities in charge of such roads, highways, and rights of way.  
 601 The approval of such municipal authorities shall be limited to the process set forth in  
 602 paragraph (3) of subsection (b) of this Code section, and the approval of the county shall  
 603 be limited to the permitting process set forth in subsection (c) of this Code section. ~~Upon~~  
 604 ~~making due compensation, as defined for municipal authorities in paragraph (9) of~~  
 605 ~~subsection (b) of this Code section and as provided for counties in subsection (c) of this~~  
 606 ~~Code section, a A telephone company shall have the right to construct, maintain, and~~  
 607 ~~operate its lines through or over any lands of this state; on, along, and upon the right of~~

608 way and structures of any railroads; and, where necessary, under or over any private  
 609 lands; and, to that end, a telephone company may have and exercise the right of eminent  
 610 domain.

611 (2) Notwithstanding any other law, a municipal authority or county shall not:

612 (A) Require any telephone company to apply for or enter into an individual license,  
 613 franchise, or other agreement with such municipal authority or county; or

614 (B) Impose any occupational license tax or fee as a condition of placing or maintaining  
 615 lines and facilities in its public roads and highways or rights of way, except as  
 616 specifically set forth in this Code section.

617 (3) A county or municipal authority shall not impose any occupational license, tax, fee,  
 618 regulation, obligation, or requirement upon the provision of the services described in  
 619 paragraphs (1) and (2) of Code Section 46-5-221, ~~including any occupational license, tax,  
 620 fee, regulation, obligation, or requirement specifically set forth in any part of this chapter  
 621 other than Part 4.~~

622 (4) Whenever a telephone company exercises its powers under paragraph (1) of this  
 623 subsection, the posts, arms, insulators, and other fixtures of its lines shall be erected,  
 624 placed, and maintained so as not to obstruct or interfere with the ordinary use of such  
 625 railroads or public roads and highways, or with the convenience of any landowners, more  
 626 than may be unavoidable. Any lines constructed by a telephone company on the right of  
 627 way of any railroad company shall be subject to relocation so as to conform to any uses  
 628 and needs of such railroad company for railroad purposes. Such fixtures, posts, and wires  
 629 shall be erected at such distances from the tracks of said railroads as will prevent any and  
 630 all damage to said railroad companies by the falling of said fixtures, posts, or wires upon  
 631 said railroad tracks; and such telephone companies shall be liable to said railroad  
 632 companies for all damages resulting from a failure to comply with this Code section.

633 (5) No county or municipal authority shall impose upon a telephone company any  
 634 build-out requirements on network construction or service deployment, and, to the extent  
 635 that a telephone company has elected alternative regulation pursuant to Code Section  
 636 46-5-165, such company may satisfy its obligations pursuant to paragraph (2) of Code  
 637 Section 46-5-169 by providing communications ~~service~~ services, at the company's option,  
 638 through any affiliated companies and through the use of any technology or service  
 639 arrangement; provided, however, that such company shall remain subject to its  
 640 obligations as set forth in paragraphs (4) and (5) of Code Section 46-5-169. The  
 641 obligations required pursuant to paragraph (2) of Code Section 46-5-169 shall not apply  
 642 to a telephone company that has elected alternative regulation pursuant to Code Section  
 643 46-5-165 and does not receive distributions from the Universal Access Fund as provided  
 644 for in Code Section 46-5-167.

645 (b)(1) Except as set forth in paragraph (6) of this subsection, any telephone company that  
646 places or seeks to place lines and facilities in the public roads and highways or rights of  
647 way of a municipal authority shall provide to such municipal authority the following  
648 information:

649 (A) The name, address, and telephone number of a principal office and local agent of  
650 such telephone company;

651 (B) Proof of certification from the Georgia Public Service Commission of such  
652 telephone company to provide telecommunications services in this state;

653 (C) Proof of insurance or self-insurance of such telephone company adequate to defend  
654 and cover claims of third parties and of municipal authorities;

655 (D) A description of the telephone company's service area, which description shall be  
656 sufficiently detailed so as to allow a municipal authority to respond to subscriber  
657 inquiries. For the purposes of this paragraph, a telephone company may, in lieu of or  
658 as a supplement to a written description, provide a map on 8 1/2 by 11 inch paper that  
659 is clear and legible and that fairly depicts the service area within the boundaries of the  
660 municipal authority. If such service area is less than the boundaries of an entire  
661 municipal authority, the map shall describe the boundaries of the geographic area to be  
662 served in clear and concise terms;

663 (E) A description of the services to be provided;

664 (F) An affirmative declaration that the telephone company shall comply with all  
665 applicable federal, state, and local laws and regulations, including municipal ordinances  
666 and regulations, regarding the placement and maintenance of facilities in the public  
667 rights of way that are reasonable, nondiscriminatory, and applicable to all users of the  
668 public rights of way, including the requirements of Chapter 9 of Title 25, the 'Georgia  
669 Utility Facility Protection Act'; and

670 (G) A statement in bold type at the top of the application as follows: 'Pursuant to  
671 paragraph (2) of subsection (b) of Code Section 46-5-1 of the Official Code of Georgia  
672 Annotated, the municipal authority shall notify the applicant of any deficiencies in this  
673 application within 15 business days of receipt of this application.'

674 (2) If an application is incomplete, the municipal authority shall notify the telephone  
675 company within 15 business days of the receipt of such application; such notice shall  
676 specifically identify all application deficiencies. If no such notification is given within  
677 15 business days of the receipt of an application, such application shall be deemed  
678 complete.

679 (3) Within 60 calendar days of the receipt of a completed application, the municipal  
680 authority may adopt such application by adoption of a resolution or ordinance or by  
681 notification to the telephone company. The failure of a municipal authority to adopt an

682 application within 60 calendar days of the receipt of a completed application shall  
683 constitute final adoption of such application.

684 (4) If it modifies its service area or provisioned services identified in the original  
685 application, the telephone company shall notify the municipal authority of changes to the  
686 service area or the services provided. Such notice shall be given at least 20 days prior to  
687 the effective date of such change. Such notification shall contain a geographic  
688 description of the new service area or areas and new services to be provided within the  
689 jurisdiction of the affected municipal authority, if any. The municipal authority shall  
690 provide to all telephone companies located in its rights of way written notice of  
691 annexations and changes in municipal corporate boundaries which, for the purposes of  
692 this Code section, shall become effective 30 days following receipt.

693 (5) An application adopted pursuant to this Code section may be terminated by a  
694 telephone company by submitting a notice of termination to the affected municipal  
695 authority. For purposes of this Code section, such notice shall identify the telephone  
696 company, the affected service area, and the effective date of such termination, which shall  
697 not be less than 60 calendar days from the date of filing the notice of termination.

698 (6) Any telephone company that has previously obtained permits for the placement of  
699 its facilities, has specified the name of such telephone company in such permit  
700 application, has previously placed its facilities in any public right of way, and has paid  
701 and continues to pay any applicable municipal authority's ~~occupational license taxes,~~  
702 ~~permit fees, franchise fees,~~ except as set forth in paragraph (8) of this subsection, or, if  
703 applicable, county permit fees shall be deemed to have complied with this Code section  
704 without any further action on the part of such telephone company except as set forth in  
705 paragraphs (8), ~~(9), (11),~~ and ~~(17)~~ (10) of this subsection.

706 (7) Any telephone company that has placed lines and facilities in the public roads and  
707 highways or rights of way of a municipal authority without first obtaining permits or  
708 otherwise notifying the appropriate municipal authority of its presence in the public roads  
709 and highways or rights of way shall provide the information required by paragraph (1)  
710 of this subsection, if applicable, to such municipal authority on or before October 1, 2008.  
711 As of October 1, 2008, if any telephone company, other than those ~~who~~ that meet the  
712 requirements of paragraph (6) of this subsection, has failed or fails to provide the  
713 information required by paragraph (1) of this subsection to the municipal authority in  
714 which its lines or facilities are located, such municipal authority shall provide written  
715 notice to such telephone company giving that company 15 calendar days from the date  
716 of receipt of such notice to comply with this subsection. In the event the 15 calendar day  
717 cure period expires without compliance, such municipal authority may petition the

718 Georgia Public Service Commission which shall, after an opportunity for a hearing, order  
719 the appropriate relief.

720 (8)(A) In the event any telephone company has an existing, valid municipal franchise  
721 agreement as of January 1, 2008, the terms and conditions of such existing franchise  
722 agreement, with the exception of any imposition of taxes, charges, or fees prohibited  
723 pursuant to Code Section 48-17-6, shall only remain effective and enforceable until the  
724 expiration of the existing agreement or December 31, ~~2012~~ 2018, whichever shall first  
725 occur.

726 ~~(B) In the event any telephone company is paying an existing occupational license tax~~  
727 ~~or fee, based on actual recurring local services revenues, as of January 1, 2008, such~~  
728 ~~payment shall be considered the payment of due compensation without further action~~  
729 ~~on the part of the municipal authority. In the event that the rate of such existing tax or~~  
730 ~~fee exceeds 3 percent of actual recurring local service revenues, that rate shall remain~~  
731 ~~effective until December 31, 2012; thereafter, the payment by such telephone company~~  
732 ~~at the rate of 3 percent shall be considered the payment of due compensation without~~  
733 ~~further action on the part of the municipal authority.~~

734 ~~(9) As used in this Code section, 'due compensation' for a municipal authority means an~~  
735 ~~amount equal to no more than 3 percent of actual recurring local service revenues~~  
736 ~~received by such company from its retail, end user customers located within the~~  
737 ~~boundaries of such municipal authority. 'Actual recurring local service revenues' means~~  
738 ~~those revenues customarily included in the Uniform System of Accounts as prescribed~~  
739 ~~by the Federal Communications Commission for Class 'A' and 'B' companies; provided,~~  
740 ~~however, that only the local service portion of the following accounts shall be included:~~

741 ~~(A) Basic local service revenue, as defined in 47 C.F.R. 32.5000;~~

742 ~~(B) Basic area revenue, as defined in 47 C.F.R. 32.5001;~~

743 ~~(C) Optional extended area revenue, as defined in 47 C.F.R. 32.5002;~~

744 ~~(D) Public telephone revenue, as defined in 47 C.F.R. 32.5010;~~

745 ~~(E) Local private line revenue, as defined in 47 C.F.R. 35.5040; provided, however,~~  
746 ~~that the portion of such accounts attributable to audio and video program transmission~~  
747 ~~service where both terminals of the private line are within the corporate limits of the~~  
748 ~~municipal authority shall not be included;~~

749 ~~(F) Other local exchange revenue, as defined in 47 C.F.R. 32.5060;~~

750 ~~(G) Local exchange service, as defined in 47 C.F.R. 32.5069;~~

751 ~~(H) Network access revenue, as defined in 47 C.F.R. 32.5080;~~

752 ~~(I) Directory revenue, as defined in 47 C.F.R. 32.5230; provided, however, that the~~  
753 ~~portion of such accounts attributable to revenue derived from listings in portion of~~  
754 ~~directories not considered white pages shall not be included;~~

755 ~~(J) Nonregulated operating revenue, as defined in 47 C.F.R. 32.5280; provided,~~  
 756 ~~however, that the portion of such accounts attributable to revenues derived from private~~  
 757 ~~lines shall not be included; and~~

758 ~~(K) Uncollectible revenue, as defined in 47 C.F.R. 32.5300.~~

759 ~~Any charge imposed by a municipal authority shall be assessed in a nondiscriminatory~~  
 760 ~~and competitively neutral manner.~~

761 ~~(10) Any due compensation paid to municipal authorities pursuant to paragraph (9) of~~  
 762 ~~this subsection shall be in lieu of any other permit fee, encroachment fee, degradation fee,~~  
 763 ~~disruption fee, business license tax, occupational license tax, occupational license fee, or~~  
 764 ~~other fee otherwise permitted pursuant to the provisions of subparagraph (A) of paragraph~~  
 765 ~~(7) of Code Section 36-34-2 or Code Section 32-4-92 et seq. or any other provision of~~  
 766 ~~law regardless of nomenclature.~~

767 ~~(11) A telephone company with facilities in the public rights of way of a municipal~~  
 768 ~~authority shall begin assessing due compensation, as defined in subsection (a) of this~~  
 769 ~~Code section, on subscribers on the date that service commences unless such company~~  
 770 ~~is currently paying a municipal authority's occupational license tax. Such due~~  
 771 ~~compensation shall be paid directly to each affected municipal authority within 30~~  
 772 ~~calendar days after the last day of each calendar quarter. In the event that due~~  
 773 ~~compensation is not paid on or before 30 calendar days after the last day of each calendar~~  
 774 ~~quarter, the affected municipal authority shall provide written notice to such telephone~~  
 775 ~~company, giving such company 15 calendar days from the date such company receives~~  
 776 ~~such notice to cure any such nonpayment. In the event the due compensation remitted~~  
 777 ~~to the affected municipal authority is not postmarked on or before the expiration of the~~  
 778 ~~15 day cure period, such company shall pay interest thereon at a rate of 1 percent per~~  
 779 ~~month to the affected municipal authority. If the 15 day cure period expires on a~~  
 780 ~~Saturday, a Sunday, or a state legal holiday, the due date shall be the next business day.~~  
 781 ~~A telephone company shall not be assessed any interest on late payments if due~~  
 782 ~~compensation was submitted in error to a neighboring municipal authority.~~

783 ~~(12) Each municipal authority may, no more than once annually, audit the business~~  
 784 ~~records of a telephone company to the extent necessary to ensure payment in accordance~~  
 785 ~~with this Code section. As used in this Code section, 'audit' means a comprehensive~~  
 786 ~~review of the records of a company which is reasonably related to the calculation and~~  
 787 ~~payment of due compensation. Once any audited period of a company has been the~~  
 788 ~~subject of a requested audit, such audited period of such company shall not again be the~~  
 789 ~~subject of any audit. In the event of a dispute concerning the amount of due~~  
 790 ~~compensation due to an affected municipal authority under this Code section, an action~~  
 791 ~~may be brought in a court of competent jurisdiction by an affected municipal authority~~

792 ~~seeking to recover an additional amount alleged to be due or by a company seeking a~~  
 793 ~~refund of an alleged overpayment; provided, however, that any such action shall be~~  
 794 ~~brought within three years following the end of the quarter to which the disputed amount~~  
 795 ~~relates, although such time period may be extended by written agreement between the~~  
 796 ~~company and such affected municipal authority. Each party shall bear the party's own~~  
 797 ~~costs incurred in connection with any dispute. The auditing municipal authority shall~~  
 798 ~~bear the cost of the audit, provided, however, that if an affected municipal authority files~~  
 799 ~~an action to recover alleged underpayments of due compensation and a court of~~  
 800 ~~competent jurisdiction determines the company has underpaid due compensation due for~~  
 801 ~~any 12-month period by 10 percent or more, such company shall be required to pay such~~  
 802 ~~municipal authority's reasonable costs associated with such audit along with any due~~  
 803 ~~compensation underpayments; provided, further, that late payments shall not apply. All~~  
 804 ~~undisputed amounts due to a municipal authority resulting from an audit shall be paid to~~  
 805 ~~the municipal authority within 45 days, or interest shall accrue.~~

806 ~~(13)(9)~~ The information provided pursuant to paragraph (1) of this subsection and any  
 807 ~~records or information furnished or disclosed by a telephone company to an affected~~  
 808 ~~municipal authority pursuant to paragraph (12) of this subsection shall be exempt from~~  
 809 ~~public inspection under Article 4 of Chapter 18 of Title 50. It shall be the duty of such~~  
 810 ~~telephone company to mark all such documents as exempt from Article 4 of Chapter 18~~  
 811 ~~of Title 50, and the telephone company shall defend, indemnify, and hold harmless any~~  
 812 ~~municipal authority and any municipal officer or employee in any request for, or in any~~  
 813 ~~action seeking, access to such records.~~

814 ~~(14) No acceptance of any payment shall be construed as a release or as an accord and~~  
 815 ~~satisfaction of any claim an affected municipal authority may have for further or~~  
 816 ~~additional sums payable as due compensation.~~

817 ~~(15) Any amounts overpaid by a company as due compensation shall be deducted from~~  
 818 ~~future due compensation owed.~~

819 ~~(16) A telephone company paying due compensation pursuant to this Code section may~~  
 820 ~~designate that portion of a subscriber's bill attributable to such charge as a separate line~~  
 821 ~~item of the bill and recover such amount from the subscriber.~~

822 ~~(17)(10)~~ Nothing in this Code section shall affect the authority of a municipal authority  
 823 to require telephone companies accessing the public roads and highways and rights of  
 824 way of a municipal authority to obtain permits and otherwise comply with the reasonable  
 825 regulations established pursuant to paragraph (10) of subsection (a) of Code Section  
 826 32-4-92.

827 ~~(18) If a telephone company does not have retail, end-user customers located within the~~  
 828 ~~boundaries of a municipal authority, then the payment by such company at the same rates~~

829 ~~that such payments were being made as of January 1, 2008, to a municipal authority for~~  
 830 ~~the use of its rights of way shall be considered the payment of due compensation;~~  
 831 ~~provided, however, that at the expiration date of any existing agreement for use of such~~  
 832 ~~municipal rights of way or December 31, 2012, whichever is earlier, the payment at rates~~  
 833 ~~in accordance with the rates set by regulations promulgated by the Department of~~  
 834 ~~Transportation shall be considered the payment of due compensation. Provided, further,~~  
 835 ~~that if a telephone company begins providing service after January 1, 2008, and such~~  
 836 ~~telephone company does not have retail, end user customers located within the~~  
 837 ~~boundaries of a municipal authority, the payment by such company at rates in accordance~~  
 838 ~~with the rates set by regulations promulgated by the Department of Transportation to a~~  
 839 ~~municipal authority for the use of its rights of way shall be considered the payment of due~~  
 840 ~~compensation.~~

841 ~~(19) Nothing in this Code section shall be construed to affect any franchise fee payments~~  
 842 ~~which were in dispute on or before January 1, 2008.~~

843 (c) If a telephone company accesses the public roads and highways and rights of way of  
 844 a county and such county requires such telephone company to pay due compensation, such  
 845 due compensation shall be limited to an administrative cost recoupment fee which shall not  
 846 exceed such county's direct, actual costs incurred in its permitting process, including  
 847 issuing and processing permits, plan reviews, physical inspection and direct administrative  
 848 costs; and such costs shall be demonstrable and shall be equitable among applicable users  
 849 of such county's roads and highways or rights of way. Permit fees shall not include the  
 850 costs of highway or rights of way acquisition or any general administrative, management,  
 851 or maintenance costs of the roads and highways or rights of way and shall not be imposed  
 852 for any activity that does not require the physical disturbance of such public roads and  
 853 highways or rights of way or does not impair access to or full use of such public roads and  
 854 highways or rights of way. Nothing in this Code section shall affect the authority of a  
 855 county to require a telephone company to comply with reasonable regulations for  
 856 construction of telephone lines and facilities in public highways or rights of way pursuant  
 857 to the provisions of paragraph (6) of Code Section 32-4-42."

858 **SECTION 5-8.**

859 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 860 amended in Code Section 48-8-2, relating to definitions regarding sales and use taxes, by  
 861 revising paragraphs (31) and (39) and by adding new paragraphs to read as follows:

862 "(4.1) 'Call center' means one or more locations that utilize telecommunications services  
 863 in one or more of the following activities: customer services, soliciting sales, reactivating

864 dormant accounts, conducting surveys or research, fundraising, collection of receivables,  
865 receiving reservations, receiving orders, or taking orders."

866 "(5.1) 'Communications services' means ancillary services, information services,  
867 telecommunications services, video programming services, and wireless services. The  
868 term shall not include Internet access service."

869 "(11.2) 'Digital audio-visual works' means a series of related images which, when shown  
870 in succession, impart an impression of motion, together with accompanying sounds, if  
871 any.

872 (11.3) 'Digital audio works' means works that result from the fixation of a series of  
873 musical, spoken, or other sounds, including ringtones. For purposes of the definition of  
874 such term, 'ringtones' means digitized sound files that are downloaded onto a device and  
875 that may be used to alert the customer with respect to a communication.

876 (11.4) 'Digital books' means works that are generally recognized in the ordinary and  
877 usual sense as books.

878 (11.5) 'Digital code' means a code which provides a purchaser with a right to obtain one  
879 or more digital products having the same tax treatment. A digital code may be obtained  
880 by any means, including e-mail or by tangible means regardless of its designation as 'song  
881 code,' 'video code,' or 'book code.'

882 (11.6) 'Direct broadcast satellite service' means the distribution or broadcasting of video  
883 programming or service by satellite directly to a subscriber's or customer's receiving  
884 equipment."

885 "(16.1) 'Information services' shall have the same meaning as provided for the term  
886 'information service' in 47 U.S.C. Section 153(24), as it existed on January 1, 2018.

887 (16.2) 'Internet access service' means a service that enables users to connect to the  
888 Internet to access content, information, or other services offered over the Internet, without  
889 regard to whether such service is referred to as telecommunications, communications,  
890 transmission, or similar services, and without regard to whether a provider of such service  
891 is subject to regulation by the Georgia Public Service Commission or the Federal  
892 Communications Commission. The term includes the purchase, use, or sale of  
893 communications services by a provider of Internet access service to the extent such  
894 communications services are purchased, used, or sold to provide Internet access service,  
895 regardless of the level of such service, or to otherwise enable users to access content,  
896 information, or other services offered over the Internet."

897 "(18.1) 'Mobile telecommunications service' has the same meaning given to such term  
898 in Section 124(7) of the Mobile Telecommunications Sourcing Act, P.L. 106-252, as it  
899 existed on January 1, 2018."

900 "(31) 'Retail sale' or a 'sale at retail' means any sale, lease, or rental for any purpose other  
 901 than for resale, sublease, or subrent. Sales for resale must be made in strict compliance  
 902 with the commissioner's rules and regulations. Any dealer making a sale for resale which  
 903 is not in strict compliance with the commissioner's rules and regulations shall be liable  
 904 for and shall pay the tax. The terms 'retail sale' or 'sale at retail' include, but are not  
 905 limited to, the following:

906 (A) Except as otherwise provided in this chapter, the sale of natural or artificial gas,  
 907 oil, electricity, solid fuel, transportation, ~~local telephone services~~ prepaid calling  
 908 services and prepaid wireless calling services, alcoholic beverages, and tobacco  
 909 products, when made to any purchaser for purposes other than resale. Sales of  
 910 communications services other than prepaid calling services and prepaid wireless  
 911 calling services shall not be retail sales or sales at retail for purposes of this chapter and  
 912 shall not be subject to the tax imposed by this chapter;

913 (B) The sale or charges for any room, lodging, or accommodation furnished to  
 914 transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which  
 915 rooms, lodgings, or accommodations are regularly furnished to transients for a  
 916 consideration. This tax shall not apply to rooms, lodgings, or accommodations supplied  
 917 for a period of 90 continuous days or more;

918 (C) Sales of tickets, fees, or charges made for admission to places of amusement,  
 919 sports, or entertainment, including, but not limited to:

920 (i) Billiard and pool rooms;

921 (ii) Bowling alleys;

922 (iii) Amusement devices;

923 (iv) Musical devices;

924 (v) Theaters;

925 (vi) Opera houses;

926 (vii) Moving picture shows;

927 (viii) Vaudeville;

928 (ix) Amusement parks;

929 (x) Athletic contests, including, but not limited to, wrestling matches, prize fights,  
 930 boxing and wrestling exhibitions, football games, and baseball games;

931 (xi) Skating rinks;

932 (xii) Race tracks;

933 (xiii) Public bathing places;

934 (xiv) Public dance halls; and

935 (xv) Any other place at which any exhibition, display, amusement, or entertainment  
 936 is offered to the public or any other place where an admission fee is charged;

937 (D) Charges made for participation in games and amusement activities;  
 938 (E) Sales of tangible personal property to persons for resale when there is a likelihood  
 939 that the state will lose tax funds due to the difficulty of policing the business operations  
 940 because:

- 941 (i) Of the operation of the business;
- 942 (ii) Of the very nature of the business;
- 943 (iii) Of the turnover of so-called independent contractors;
- 944 (iv) Of the lack of a place of business in which to display a certificate of registration;
- 945 (v) Of the lack of a place of business in which to keep records;
- 946 (vi) Of the lack of adequate records;
- 947 (vii) The persons are minors or transients;
- 948 (viii) The persons are engaged in essentially service businesses; or
- 949 (ix) Of any other reasonable reason.

950 The commissioner may promulgate rules and regulations requiring vendors of persons  
 951 described in this subparagraph to collect the tax imposed by this article on the retail  
 952 price of the tangible personal property. The commissioner shall refuse to issue  
 953 certificates of registration and may revoke certificates of registration issued in violation  
 954 of his or her rules and regulations; or

955 ~~(F) Charges, which applied to sales of telephone service, made for local exchange~~  
 956 ~~telephone service, except coin operated telephone service, except as otherwise provided~~  
 957 ~~in subparagraph (G) of this paragraph; or~~

958 ~~(G)(F)(i)~~ If the price is attributable to products or services that are taxable and  
 959 products or services that are nontaxable, the portion of the price attributable to the  
 960 nontaxable products or services may be subject to tax unless the provider can identify  
 961 by reasonable and verifiable standards such portion from its books and records that  
 962 are kept in the regular course of business for other purposes, including, but not limited  
 963 to, nontax purposes.

964 (ii) If the price is attributable to products or services that are subject to tax at different  
 965 tax rates or subject to different taxes, the total price may be treated as attributable to  
 966 the products or services subject to tax at the ~~highest tax~~ higher tax or the higher-rate  
 967 tax rate unless the provider can identify by reasonable and verifiable standards the  
 968 portion of the price attributable to the products or services subject to tax at the lower  
 969 rate from the provider's books and records that are kept in the regular course of  
 970 business for other purposes, including, but not limited to, nontax purposes."

971 "(34.1) 'Specified digital products' means electronically transferred digital audio-visual  
 972 works, digital audio works, and digital books."

973 "(39) 'Telecommunications ~~service~~ services' means the electronic transmission,  
 974 conveyance, or routing of voice, data, audio, video, or any other information or signals  
 975 to a point, or between or among points. The term telecommunications ~~service~~ services  
 976 includes such transmission, conveyance, or routing in which computer processing  
 977 applications are used to act on the form, code, or protocol of the content for purposes of  
 978 transmission, conveyance, or routing without regard to whether such ~~service is~~ services  
 979 are referred to as voice Voice over Internet ~~protocol~~ Protocol (VoIP) services or is are  
 980 classified by the Federal Communications Commission as enhanced or value added.  
 981 Telecommunications ~~service~~ services shall not include:

- 982 (A) Data processing and information services that allow data to be generated, acquired,  
 983 stored, processed, or retrieved and delivered by an electronic transmission to a  
 984 purchaser where such purchaser's primary purpose for the underlying transaction is the  
 985 processed data or information;
- 986 (B) Installation or maintenance of wiring or equipment on a customer's premises;
- 987 (C) Tangible personal property;
- 988 (D) Advertising, including but not limited to directory advertising;
- 989 (E) Billing and collection services provided to third parties;
- 990 (F) Internet access service;
- 991 (G) ~~Radio and television audio and video~~ Video programming services, ~~regardless of~~  
 992 ~~the medium, including the furnishing of transmission, conveyance, and routing of such~~  
 993 ~~services by the programming service provider. Radio and television audio and video~~  
 994 ~~programming services shall include but not be limited to cable service as defined in 47~~  
 995 ~~U.S.C. Section 522(6) and audio and video programming services delivered by~~  
 996 ~~commercial mobile radio service providers, as defined in 47 C.F.R. Section 20.3;~~
- 997 (H) Ancillary services; or
- 998 (I) Digital products delivered electronically, including but not limited to software,  
 999 music, video, reading materials, or ~~ring tones~~ ring tones."

1000 "(39.2) 'Transferred electronically' means obtained by the purchaser by means other than  
 1001 tangible storage media. It is not necessary that a copy of the product be physically  
 1002 transferred to the purchaser. A product shall be considered to have been transferred  
 1003 electronically to a purchaser if such purchaser has access to such product."

1004 "(42.1) 'Video programming services' means the sale, offering, transmission, conveyance,  
 1005 or routing of audio or video programming services for purchase by subscribers or  
 1006 customers, regardless of the medium, technology, or method of display, including the  
 1007 furnishing of transmission, conveyance, and routing of such programming by the  
 1008 programming services provider. Such term shall include, but not be limited to:

- 1009 (A) Cable service, as defined in Section 602(6) of the Communications Act of 1934  
 1010 (47 U.S.C. Section 522), as it existed on January 1, 2018;  
 1011 (B) Interactive on-demand service, as defined in Section 602(12) of such Act  
 1012 (47 U.S.C. Section 522), as it existed on January 1, 2018;  
 1013 (C) The provision of video programming by a multichannel video programming  
 1014 distributor, as defined in paragraphs (20) and (13) of Section 602 of such Act  
 1015 (47 U.S.C. Section 522), as it existed on January 1, 2018;  
 1016 (D) The distribution of audio or video programming by providers of mobile service,  
 1017 as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, as it existed  
 1018 on January 1, 2018, when such service is offered for purchase by subscribers or  
 1019 customers of such service;  
 1020 (E) Digital audio works sold to an end user with rights of less than permanent use,  
 1021 regardless of whether the end user is required to make continued payments for such  
 1022 rights; and  
 1023 (F) Digital audio-visual works sold to an end user with rights of less than permanent  
 1024 use, regardless of whether the end user is required to make continued payments for such  
 1025 rights."  
 1026 "(44) 'Wireless services' means any services provided using a licensed or unlicensed  
 1027 spectrum including, but not limited to, the use of Wi-Fi, whether at a fixed location or  
 1028 mobile, using wireless facilities."

### 1029 **SECTION 5-8.1.**

1030 Said Title 48 is further amended in Code Section 48-8-3, relating to exemptions from sales  
 1031 and use tax, by deleting "or" at the end of subparagraph (E) of paragraph (99), by replacing  
 1032 the period with "; or" at the end of subparagraph (C) of paragraph (100), and by adding a new  
 1033 paragraph to read as follows:

- 1034 "(101)(A) Sales of broadband equipment used by a communications services provider  
 1035 in the business of providing communications services in this state.  
 1036 (B) As used in this paragraph, the term:  
 1037 (i) 'Broadband equipment used by a communications services provider in the business  
 1038 of providing communications services' means all equipment, machinery, supplies, or  
 1039 other tangible personal property capable of being used for or in connection with  
 1040 broadband services by a communications services provider, including customer  
 1041 premises equipment, machinery, software, or other infrastructure that is used in whole  
 1042 or in part in producing, broadcasting, distributing, sending, receiving, storing,  
 1043 transmitting, retransmitting, amplifying, switching, or routing broadband services,  
 1044 including the monitoring, testing, maintaining, enabling, or facilitating of such

1045 equipment, machinery, software, or other infrastructure. Such term includes, but is  
 1046 not limited to, wires, cables, antennas, poles, switches, routers, amplifiers, rectifiers,  
 1047 repeaters, receivers, multiplexers, duplexers, transmitters, power equipment, backup  
 1048 power equipment, diagnostic equipment, storage devices, converters, remote controls,  
 1049 digital video recording devices, modems, headends, and other general central office  
 1050 equipment, such as channel cards, frames, and cabinets.

1051 (ii) 'Communications services' means telecommunications services, video services,  
 1052 and Internet access.

1053 (iii) 'Communications services provider' or 'provider' means every person who  
 1054 provides communications services to subscribers or customers in this state.

1055 (iv) 'Internet access' has the same meaning as defined in 47 U.S.C. Section 151, note.

1056 (v) 'Video services' means the sale, offering, transmission, conveyance, or routing of  
 1057 video programming or other video content for purchase by subscribers or customers,  
 1058 regardless of the medium, technology, or method of display and regardless of the  
 1059 payment schedule or storage method used to purchase or access such video  
 1060 programming or video content. The term also shall include, but not be limited to, the  
 1061 provision of video programming by a multichannel video programming distributor,  
 1062 as defined in paragraphs (20) and (13) of Section 602 of such Act (47 U.S.C. Section  
 1063 522), including cable service, as defined in Section 602(6) of the Communications  
 1064 Act of 1934 (47 U.S.C. Section 522) and any substantially equivalent successor  
 1065 technology."

1066 **SECTION 5-9.**

1067 Said Title 48 is further amended by revising Code Section 48-8-32, relating to collectability  
 1068 and rates of sales and use taxes, as follows:

1069 "48-8-32.

1070 The tax at the rate of 4 percent of the retail sales price at the time of sale or 4 percent of  
 1071 the purchase price at the time of purchase, as the case may be, shall be collectable at the  
 1072 rate specified in Code Section 48-8-30 from all persons engaged as dealers in the sale at  
 1073 retail, or in the use, consumption, distribution, or storage for use or consumption in this  
 1074 state of tangible personal property, prepaid calling services, and prepaid wireless calling  
 1075 services."

1076 **SECTION 5-10.**

1077 Said Title 48 is further amended in Code Section 48-8-39, relating to the effect of certain use  
 1078 of sales tax certificates, by revising subsection (a) as follows:

1079 "(a) If a purchaser who gives a certificate stating that property is purchased for resale  
 1080 makes any use of the property other than retention, demonstration, or display while holding  
 1081 it for sale in the regular course of business, the use shall be deemed a retail sale by the  
 1082 purchaser as of the time the property is first used by ~~him~~ the purchaser, and the purchase  
 1083 price of the property to ~~him~~ the purchaser shall be deemed the gross receipts from the retail  
 1084 sale. If the sole use of the property other than retention, demonstration, or display in the  
 1085 regular course of business is the rental of the property while holding it for sale or the  
 1086 transportation of persons for hire while holding the property for sale, the purchaser may  
 1087 elect to include in ~~his~~ the purchaser's gross receipts either the amount of the rental charged  
 1088 or the total amount of the charges made by ~~him~~ the purchaser for the transportation rather  
 1089 than the cost of the property to ~~him~~ the purchaser. If the sole use of the property by a  
 1090 purchaser, other than retention, demonstration, or display in the regular course of business,  
 1091 is the transfer of such property, either free of charge or at a sale price not exceeding the  
 1092 purchase price of the property, to another person in conjunction with such other person  
 1093 entering into a contract to purchase communications services subject to the tax imposed  
 1094 under Chapter 17 of this title, then such use shall be treated as a retail sale to such other  
 1095 person for no consideration, in the case of a transfer that is free of charge, or for the sale  
 1096 price collected with respect to such transfer."

#### 1097 SECTION 5-11.

1098 Said Title 48 is further amended in Code Section 48-8-42, relating to credit for taxes paid in  
 1099 other states, by adding a new subsection to read as follows:

1100 "(c) Any communications services provider that erroneously but in good faith pays the tax  
 1101 imposed by Chapter 17 of this title on an item of tangible personal property or a service  
 1102 subject to the tax imposed by this chapter shall be allowed a credit against the tax imposed  
 1103 by this chapter to the extent of the amount of such tax paid."

#### 1104 SECTION 5-12.

1105 Said Title 48 is further amended by repealing subsection (e) of Code Section 48-8-77,  
 1106 relating to sourcing of local telecommunications services.

#### 1107 SECTION 5-13.

1108 Said Title 48 is further amended by adding a new Code section to read as follows:

1109 "48-8-78.

1110 (a) As used in this Code section, the term:

1111 (1) 'Air-to-ground radiotelephone service' means a radio service, as such term is defined  
 1112 in 47 C.F.R. 22.99, as it existed on January 1, 2018, in which common carriers are

1113 authorized to offer and provide radio telecommunications services for hire to subscribers  
1114 in an aircraft.

1115 (2) 'Call-by-call basis' means any method of charging for telecommunications services  
1116 where the price is measured by individual calls.

1117 (3) 'Communications channel' means a physical or virtual path of communications over  
1118 which signals are transmitted between or among customer channel termination points.

1119 (4) 'Customer' means the person or entity that contracts with the seller of  
1120 telecommunications services. If the end user of the telecommunications services is not  
1121 the contracting party, the end user of the telecommunications services is the customer of  
1122 the telecommunications services but only for the purpose of sourcing sales of  
1123 telecommunications services. The term 'customer' shall not include a reseller of  
1124 telecommunications services or, for mobile telecommunications service, a serving carrier  
1125 under an agreement to serve the customer outside the home service provider's licensed  
1126 service area.

1127 (5) 'Customer channel termination point' means, in the context of a private  
1128 communications service, the location where the customer either inputs or receives  
1129 communications.

1130 (6) 'End user' means the person who utilizes a telecommunications service. In the case  
1131 of an entity, the term 'end user' means the individual who utilizes a service on behalf of  
1132 the entity.

1133 (7) 'Home service provider' has the same meaning given to such term in Section 124(5)  
1134 of the Mobile Telecommunications Sourcing Act, P.L. 106-252, 4 U.S.C. Section 124(5),  
1135 as it existed on January 1, 2018.

1136 (8) 'Postpaid calling service' means a telecommunications service obtained by making  
1137 a payment on a call-by-call basis either through the use of a credit card or payment  
1138 mechanism such as a bank card, travel card, credit card, or debit card, or by charge made  
1139 to a telephone number which is not associated with the origination or termination of the  
1140 telecommunications service. A postpaid calling service includes a telecommunications  
1141 service, excluding a prepaid wireless calling service, that would be a prepaid calling  
1142 service, except that the right provided is not exclusively to access telecommunications  
1143 services.

1144 (9) 'Private communications service' means a telecommunications service that entitles  
1145 the customer to exclusive or priority use of a communications channel or group of  
1146 channels between or among termination points, regardless of the manner in which such  
1147 channel or channels are connected, and includes switching capacity, extension lines,  
1148 stations, and any other associated services that are provided in connection with the use  
1149 of such channel or channels.

- 1150 (10) 'Service address' means:
- 1151 (A) The location of the telecommunications equipment to which a customer's call is  
 1152 charged and from which the call originates or terminates, regardless of where the call  
 1153 is billed or paid;
- 1154 (B) If the location under subparagraph (A) of this paragraph is unknown, the  
 1155 origination point of the signal of the telecommunications service first identified by  
 1156 either the seller's telecommunications system or, in information received by the seller  
 1157 from its service provider, where the system used to transport such signal is not that of  
 1158 the seller; or
- 1159 (C) If the locations under both subparagraphs (A) and (B) of this paragraph are  
 1160 unknown, the location of the customer's place of primary use.
- 1161 (b) The provisions of this Code section are solely for the purposes of sourcing  
 1162 communications services, the taxability of which is governed by this chapter with respect  
 1163 to prepaid calling services and prepaid wireless calling services and Chapter 17 of this title  
 1164 with respect to all other communications services.
- 1165 (c) The following sourcing rules shall apply to telecommunications services:
- 1166 (1) Except as otherwise provided in paragraph (4) of this subsection, telecommunications  
 1167 services sold on a call-by-call basis shall be sourced to this state if either of the following  
 1168 occurs:
- 1169 (A) The call both originates and terminates in this state; or
- 1170 (B) The call either originates in this state or terminates in this state and the service  
 1171 address associated with the call is located in this state;
- 1172 (2) Except as otherwise provided in paragraph (4) of this subsection, any  
 1173 telecommunications service sold on a basis other than a call-by-call basis shall be sourced  
 1174 to this state if the telecommunications service is charged to a customer whose place of  
 1175 primary use is located in this state;
- 1176 (3) Except as otherwise provided in paragraph (4) of this subsection, mobile  
 1177 telecommunications services provided by a customer's home service provider shall be  
 1178 sourced to this state if the customer's place of primary use is located in this state; and
- 1179 (4) Notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection, the  
 1180 following rules shall apply:
- 1181 (A) Air-to-ground radiotelephone service shall be sourced to this state if the customer's  
 1182 place of primary use is located in this state;
- 1183 (B) Postpaid calling service shall be sourced to this state if the origination point of the  
 1184 telecommunications signal is located in this state, as first identified by either of the  
 1185 following:
- 1186 (i) The seller's telecommunications system; or

- 1187 (ii) Information received by the seller from its service provider, where the system  
 1188 used to transport such signal is not that of the seller;
- 1189 (C) Private communications services shall be sourced to this state under the following  
 1190 rules:
- 1191 (i) Service for a separate charge related to a customer channel termination point shall  
 1192 be sourced to this state if the customer channel termination point is located in this  
 1193 state;
- 1194 (ii) Service for a separate charge for the use of a channel that is exclusively between  
 1195 two channel termination points located in this state shall be sourced to this state; and  
 1196 (iii) Where channel termination points of a channel are located both within and  
 1197 outside this state:
- 1198 (I) Fifty percent of any separate charge for a segment of a channel between two  
 1199 such channel termination points; and
- 1200 (II) To the extent that the charge for any segment or segments of a channel is not  
 1201 separately billed, an amount equal to the total charge for such channel segment or  
 1202 segments multiplied by a fraction, the numerator of which is the number of channel  
 1203 termination points located in this state and the denominator of which is the total  
 1204 number of channel termination points; and
- 1205 (D) A sale of a prepaid calling service or a sale of a prepaid wireless calling service  
 1206 shall be sourced in accordance with subsection (b) of Code Section 48-8-77; provided,  
 1207 however, that in the case of a sale of a prepaid wireless calling service, the rule  
 1208 provided in subparagraph (b)(1)(E) of Code Section 48-8-77 shall include as an option  
 1209 the location associated with the mobile telephone number.
- 1210 (d) All communications services other than telecommunications services shall be sourced  
 1211 to the customer's place of primary use if located in this state."

#### 1212 **SECTION 5-14.**

1213 Said Title 48 is further amended by revising Chapter 17, which was previously reserved, as  
 1214 follows:

#### 1215 "CHAPTER 17

1216 48-17-1.

1217 (a) Except as otherwise provided in this Code section, there is imposed on the sales price,  
 1218 as such term is defined in paragraph (34) of Code Section 48-8-2, paid for the retail  
 1219 purchase of communications services, as such term is defined in paragraph (5.1) of Code  
 1220 Section 48-8-2, that are sourced to this state under Code Section 48-8-78 the following:

- 1221 (1) A state tax on direct broadcast satellite service at the rate of 4 percent;  
 1222 (2) A state tax on communications services other than direct broadcast satellite service  
 1223 at the rate of 2 percent; and  
 1224 (3)(A) A local tax on communications services other than direct broadcast satellite  
 1225 service at the rate of 2 percent.  
 1226 (B) Where a county or consolidated government fails to comply with the requirements  
 1227 of subsection (e) of Code Section 48-17-5, then the tax imposed by this paragraph  
 1228 within the unincorporated area of such county shall be an additional 2 percent state tax  
 1229 on communications services other than direct broadcast satellite service.  
 1230 (C) Where a municipality located in such county or consolidated government described  
 1231 in subparagraph (B) of this paragraph fails to comply with the requirements of  
 1232 subsection (e) of Code Section 48-17-5, then the tax imposed by this paragraph within  
 1233 such municipality shall be an additional 2 percent state tax on communications services  
 1234 other than direct broadcast satellite service.  
 1235 (b) It is the intent of the legislature that a total combined state and local tax rate of 4  
 1236 percent shall be imposed on all communications services throughout the state.  
 1237 ~~Reserved.~~  
 1238 48-17-2.  
 1239 (a) Notwithstanding any provision of law to the contrary, with respect to sales of  
 1240 telecommunications services to any person for use in the operation of one or more call  
 1241 centers, the state tax imposed by this chapter shall not exceed \$12,500.00 per calendar year,  
 1242 and the local tax imposed by this chapter shall not exceed \$12,500.00 per calendar year.  
 1243 (b) The limitation set forth in subsection (a) of this Code section shall apply only to  
 1244 holders of a direct payment number issued by the department. In order to obtain such  
 1245 direct payment number, the applicant shall establish that the applicant satisfies the criteria  
 1246 for a call center as defined in paragraph (4.1) of Code Section 48-8-2.  
 1247 (c) The department shall not issue any refunds of taxes paid prior to receiving a direct  
 1248 payment number.  
 1249 (d) All entities wholly owned by the same person or entity shall be considered a single  
 1250 person.  
 1251 48-17-3.  
 1252 (a) To prevent multistate taxation of communications services subject to taxation under  
 1253 this chapter, any taxpayer, upon proof that such taxpayer has paid a tax in another state on  
 1254 such service, shall be allowed a credit against the tax imposed by this chapter to the extent  
 1255 of the amount of such tax paid in such other state.

1256 (b) Any communications services provider that erroneously but in good faith pays the tax  
 1257 imposed by Chapter 8 of this title on the provision of communications services shall be  
 1258 allowed credit against the tax imposed by this chapter to the extent of the amount of such  
 1259 tax paid upon the filing of a claim within three years of the date of the erroneous payment.

1260 48-17-4.

1261 All procedural and administrative provisions of Chapters 2 and 8 of this title, including  
 1262 those which set forth the limitations periods and procedures for assessment, collection,  
 1263 refunds, and credits; those which fix penalties and interest for nonpayment of tax and for  
 1264 noncompliance with the provisions of this title; and all other requirements and duties  
 1265 imposed upon the taxpayer, shall apply to all taxpayers liable for the communications  
 1266 services tax imposed under the provisions of this chapter and to all providers of  
 1267 communications services required to collect and remit such taxes. In addition, all  
 1268 definitions, sourcing rules, customer remedy rules, and bundled transaction rules, which  
 1269 have been enacted in compliance with the Streamlined Sales and Use Tax Agreement and  
 1270 codified in Chapter 8 of this title, shall apply to the communications services tax imposed  
 1271 under the provisions of this chapter. The commissioner shall exercise all power and  
 1272 authority and perform all duties with respect to persons obligated under this chapter as are  
 1273 provided in Chapters 2 and 8 of this title, except where there is a conflict, in which case the  
 1274 provisions of this chapter shall control. The commissioner may from time to time make  
 1275 such rules and regulations not inconsistent with this chapter as may be deemed necessary  
 1276 to carry out its provisions.

1277 48-17-5.

1278 (a) A communications services provider shall be permitted to deduct and retain 2 percent  
 1279 of the total communications services tax that is collected and remitted by the provider on  
 1280 a timely basis to the department.

1281 (b) The tax imposed by Code Section 48-17-1, including any penalties or interest  
 1282 attributable to the nonpayment of such tax or for noncompliance with the provisions of this  
 1283 chapter, shall be collected by the department and shall be accounted for separately from all  
 1284 other taxes. One percent of the amounts collected shall be paid into the general fund of the  
 1285 state treasury in order to defray the costs of administration.

1286 (c)(1) The remaining amounts collected pursuant to paragraphs (1) and (2) of  
 1287 subsection (a) of Code Section 48-17-1 shall be credited in the same manner as the state  
 1288 sales and use taxes collected pursuant to Article 1 of Chapter 8 of this title.

1289 (2) The remaining amounts collected pursuant to paragraph (3) of subsection (a) of Code  
 1290 Section 48-17-1 shall be distributed as follows:

1291 (A) Each municipality, county, or consolidated government that has complied with the  
 1292 requirements of subsection (e) of this Code section shall receive an amount equal to the  
 1293 average monthly revenues that were received from communications services providers  
 1294 during 2017 by such municipality, county, or consolidated government pursuant to  
 1295 taxes, charges, and fees, other than local option sales taxes prohibited by Code  
 1296 Section 48-8-6, which were validly imposed and in effect during that time. All or part  
 1297 of the proceeds received by a county or consolidated government pursuant to this  
 1298 subparagraph may be expended for services provided within the unincorporated area  
 1299 of the county or consolidated government including within any special district created  
 1300 by a county or consolidated government for the provision of services in all or parts of  
 1301 the unincorporated area of the county or consolidated government; and

1302 (B) The amount remaining after the distributions required by subparagraph (A) of this  
 1303 paragraph shall be distributed as follows:

1304 (i) Each municipality that has complied with the requirements of subsection (e) of  
 1305 this Code section shall receive an amount equal to such remaining amount multiplied  
 1306 by a fraction, the numerator of which is the population in such municipality and the  
 1307 denominator of which is the total population of this state, using the most recent annual  
 1308 estimates of the population of cities and counties in Georgia as prepared by the United  
 1309 States Bureau of the Census; and

1310 (ii) Each county or consolidated government that has complied with the requirements  
 1311 of subsection (e) of this Code section shall receive an amount equal to such remaining  
 1312 amount multiplied by a fraction, the numerator of which is the sum of the population  
 1313 within the unincorporated areas of such county or consolidated government and the  
 1314 denominator of which is the total population of this state, using the most recent annual  
 1315 estimates of the population of cities and counties in Georgia as prepared by the United  
 1316 States Bureau of the Census.

1317 (d)(1) Each consolidated government, county, or municipality that received in 2017  
 1318 taxes, charges, or fees, other than local option sales taxes prohibited by Code  
 1319 Section 48-8-6, which were validly imposed and in effect during that time shall report the  
 1320 amount of such taxes, charges, or fees received in 2017 to the department by  
 1321 October 31, 2018.

1322 (2) Each communications services provider that paid in 2017 taxes, charges, or fees,  
 1323 other than local option sales taxes prohibited by Code Section 48-8-6, shall report the  
 1324 amount of such taxes, charges, or fees paid in 2017 to the department by  
 1325 October 31, 2018.

1326 (3) The department shall be charged with reviewing such data from all political  
1327 subdivisions and communications services providers to ensure accuracy and to reconcile  
1328 the data based on the best information available.

1329 (e) Each consolidated government, county, or municipality shall impose by ordinance or  
1330 resolution a local tax on communications services other than direct broadcast satellite  
1331 service pursuant to paragraph (3) of subsection (a) of Code Section 48-17-1 under the  
1332 following conditions:

1333 (1) On or before December 31 of the year prior to enactment, the consolidated  
1334 government, county, or municipality shall file with the department a certified copy of the  
1335 pertinent parts of all ordinances, resolutions, and amendments thereto which levy the 2  
1336 percent tax on communications services other than direct broadcast satellite service;

1337 (2) Such ordinance shall have an effective date of January 1 of the following year;

1338 (3) The filing required by this subsection shall be a condition to the imposition of the  
1339 local tax pursuant to paragraph (3) of subsection (a) of Code Section 48-17-1 by a  
1340 consolidated government, a county, or a municipality; and

1341 (4) If a consolidated government, county, or municipality does not file with the  
1342 department a certified copy of the pertinent parts of all ordinances, resolutions, and  
1343 amendments thereto which levy the 2 percent tax on communications services other than  
1344 direct broadcast satellite service as required in paragraph (1) of this subsection, or if a  
1345 county or municipality does not provide the department with the amount of taxes,  
1346 charges, or fees received in 2017, as required in paragraph (1) of subsection (d) of this  
1347 Code section, the department shall upon receipt of such information distribute such funds  
1348 on the first day of the next succeeding calendar quarter.

1349 (f) Other than for purposes of collecting and remitting certain enhanced 9-1-1 charges,  
1350 providers of communications services shall not be required to identify, report, or source  
1351 communications services or a communications services tax on the county or municipal  
1352 level.

1353 (g) The state auditor shall annually review the disbursements pursuant to paragraph (2) of  
1354 subsection (c) of this Code section for each fiscal year. The state auditor shall issue such  
1355 state auditor's findings to the Governor on or before December 31 of each year, and a copy  
1356 shall be posted on the state auditor's website.

1357 48-17-6.

1358 (a)(1) For purposes of this subsection, the term 'provider of communications services'  
1359 shall include parties providing infrastructure directly involved in the transmission,  
1360 receipt, or processing of radio waves or electrical signals used in the provision or  
1361 provisioning of communications services. Infrastructure shall include, but not be limited

1362 to, towers, poles, and other structures of whatever kind to which are attached antennas  
 1363 or other equipment for the transmission or receipt of radio waves or electrical signals, as  
 1364 well as fixtures necessary to affix antennas or other equipment to such towers, poles, or  
 1365 structures. Infrastructure shall not include residences or commercial or industrial  
 1366 buildings. Parties providing infrastructure are considered providers of communications  
 1367 services only to the extent of their provision or provisioning of such infrastructure.

1368 (2) Except as provided in paragraph (4) of this subsection, no county, municipality, or  
 1369 other political subdivision of this state shall:

1370 (A) Levy any tax, charge, fee, or other imposition on or with respect to  
 1371 communications services, or collect any such tax, charge, fee, or other imposition, from  
 1372 providers of communications services;

1373 (B) Require any provider of communications services, including, but not limited to,  
 1374 cable service providers or other video programming services providers, to enter into or  
 1375 extend the term of a franchise or other agreement which requires the payment of a tax,  
 1376 charge, fee, or other imposition; or

1377 (C) Adopt or enforce any provision of any ordinance or agreement to the extent that  
 1378 such provision obligates a provider of communications services to pay to the county  
 1379 and municipality a tax, charge, fee, or other imposition.

1380 (3) For purposes of this subsection, a tax, charge, fee, or other imposition includes any  
 1381 amount or in-kind payment of property or services which is required by ordinance or  
 1382 agreement to be paid or furnished to a political subdivision by or through a provider of  
 1383 communications services in its capacity as a provider of communications services,  
 1384 regardless of whether such tax, charge, fee, or in-kind payment of property or services  
 1385 is:

1386 (A) Designated as a franchise fee, excise tax, sales tax, services tax, user fee,  
 1387 occupancy fee, occupational or business license tax or fee, subscriber charge, tower fee,  
 1388 base station fee, or otherwise;

1389 (B) Measured by the amounts charged or received for services, the type of equipment  
 1390 or facilities deployed, or otherwise;

1391 (C) Intended as compensation for the use of public rights of way, the right to conduct  
 1392 business, or otherwise; or

1393 (D) Permitted or required to be separately stated on the customer's bill.

1394 (4) This subsection shall not apply to:

1395 (A) Ad valorem taxes levied pursuant to Chapter 5 of this title;

1396 (B) Emergency telephone surcharges;

1397 (C) Amounts charged for the rental or other use of property owned by a public body  
 1398 which is not in the public rights of way to a provider of communications services for

1399 any purpose, including, but not limited to, the placement or attachment of equipment  
1400 used in the provision of communications services;  
1401 (D) Amounts charged for the rental of space on a utility pole or tower owned by a  
1402 political subdivision of this state, whether in the public right of way or not, for the  
1403 attachment of equipment used in the provision of communications services;  
1404 (E) Permit fees generally imposed and applicable to a majority of all other businesses,  
1405 which are not related to placing or maintaining facilities in or on public roads or rights  
1406 of way;  
1407 (F) Taxes, charges, and fees which are ordinary and generally applicable and which are  
1408 validly levied and required to be paid by a person in a capacity other than its capacity  
1409 as a provider of communications services. Such taxes, charges, and fees include, by  
1410 way of example, but are not limited to, taxes, charges, and fees for water, sewer,  
1411 electricity, sanitation, police, fire, or other such services, or any special district,  
1412 community improvement district, or similar such district services, or any taxes, fees,  
1413 or assessments imposed to pay bonded indebtedness;  
1414 (G) Taxes imposed pursuant to paragraph (3) of subsection (a) of Code  
1415 Section 48-17-1;  
1416 (H) Zoning, construction, and similar application fees, provided that such fees do not  
1417 exceed the lower of either the actual direct cost incurred by the county or municipality  
1418 in the review of such applications or the amount generally imposed by the consolidated  
1419 government, county, or municipality for zoning, construction, and similar applications;  
1420 and  
1421 (I) Any civil penalties or fines, any criminal penalties or fines, or both.  
1422 (5) This subsection shall not preempt the provisions of Code Section 25-9-6 or 25-9-13  
1423 and shall not be construed to prohibit any municipality or county from seeking to recover  
1424 the actual direct cost of repairing damage to public streets caused by a communications  
1425 services provider's installation or repair of its facilities.  
1426 (b) In establishing guidelines and conditions for placing, constructing, repairing, or  
1427 maintaining communications lines or facilities over, on, under, through, or along any public  
1428 highways, public roads, public streets, or other public places or rights of way, neither the  
1429 state nor any agency or political subdivision thereof shall discriminate between or among  
1430 communications services providers in violation of Section 253(c) of the Communications  
1431 Act of 1934, 47 U.S.C. Section 253(c)."

1432

**PART VI**

1433

**SECTION 6-1.**

1434 This part shall be known and may be cited as the "Uniform Franchise Fee Structure for  
1435 Communications Services Providers Act."

1436

**SECTION 6-2.**

1437 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
1438 by adding a new chapter to read as follows:

1439

"CHAPTER 391440 50-39-1.1441 As used in this chapter, the term:

1442 (1) 'Authority' means the Department of Transportation, any local governing authority,  
1443 members of the Municipal Electric Authority of Georgia as governed by Article 3 of  
1444 Chapter 3 of Title 46, and any electric membership corporation established under Article  
1445 4 of Chapter 3 of Title 46.

1446 (2) 'Collocate' or 'collocation' means to install, mount, maintain, operate, or replace one  
1447 or more small wireless facilities on or within an existing wireless support structure or  
1448 utility pole. The term shall not include the installation of a new utility pole or wireless  
1449 support structure in a public right of way.

1450 (3) 'Communications facility' means that set of equipment and network components,  
1451 including wires and cables and associated facilities used by a communications services  
1452 provider to facilitate communications services.

1453 (4) 'Communications services' shall have the same meaning as provided in Code  
1454 Section 48-8-2.

1455 (5) 'Communications services provider' means a cable operator as defined in 47 U.S.C.  
1456 Section 522(5), as it existed on January 1, 2018; a telecommunications carrier as defined  
1457 in 47 U.S.C. Section 153(512), as it existed on January 1, 2018; a provider of information  
1458 services as defined in 47 U.S.C. Section 153(24), as it existed on January 1, 2018; and  
1459 a wireless services provider.

1460 (6) 'Interstate highways' shall have the same meaning as provided in Code  
1461 Section 32-1-3.

1462 (7) 'Law' means any federal, state, or local law, statute, common law, code, rule,  
1463 regulation, order, or ordinance.

1464 (8) 'Local governing authority' means a municipality or county that has adopted land use  
 1465 or zoning regulations for all or the majority of land use within its jurisdiction or has  
 1466 adopted separate regulations pertaining to the location, construction, collocation,  
 1467 modification, or operation of wireless facilities.

1468 (9) 'Person' means an individual, corporation, limited liability company, partnership,  
 1469 association, trust, or other entity or organization, including an authority.

1470 (10) 'Right of way' shall have the same meaning as provided in Code Section 32-1-3.  
 1471 The term shall not include interstate highways.

1472 (11) 'Utility pole' means a pole or similar structure that is or may be used in whole or in  
 1473 part by or for wireline communications, electric distribution, lighting, traffic control,  
 1474 signage, or a similar function, or for the collocation of communications facilities. The  
 1475 term shall not include wireless support structures or electric transmission structures.

1476 (12) 'Wireless facility' means equipment at a fixed location that enables wireless  
 1477 communications or surface wave communications between user equipment or nodes of  
 1478 a communications network, or both, including:

1479 (A) Equipment associated with wireless communications or surface wave  
 1480 communications; and

1481 (B) Radio transceivers, surface wave couplers, antennas, coaxial or fiber optic cables,  
 1482 regular and backup power supplies, and comparable equipment, regardless of  
 1483 technological configuration.

1484 (13) 'Wireless services' shall have the same meaning as provided in Code Section 48-8-2.

1485 (14) 'Wireless services provider' means a person that provides wireless services.

1486 (15) 'Wireless support structure' means a freestanding structure, such as a monopole;  
 1487 tower, either guyed or self-supporting; billboard; or other existing or proposed structure  
 1488 designed to support or capable of supporting wireless facilities. Such term shall not  
 1489 include a utility pole or an electric transmission structure.

1490 50-39-2.

1491 (a) The provisions of this Code section shall only apply to activities of a communications  
 1492 services provider within a right of way.

1493 (b) An authority shall not enter into an exclusive arrangement with any person for use of  
 1494 a right of way for the construction, installation, maintenance, modification, operation,  
 1495 marketing, or replacement of communications facilities or the collocation of said  
 1496 communications facilities.

1497 (c) An authority shall not assess an additional franchise fee to communications services  
 1498 providers subject to the communications services tax under Chapter 17 of Title 48.

1499 (d) For communications services providers not subject to the communications services tax  
 1500 under Chapter 17 of Title 48, an authority, if authorized by applicable law to charge a rate  
 1501 or fee, may charge a franchise fee not to exceed \$500.00 per line or mile of public right of  
 1502 way utilized by said communications services provider within the jurisdiction of the  
 1503 applicable authority.

1504 (e) Should an authority have an existing franchise rate or fee that does not comply with the  
 1505 requirements of subsection (d) of this Code section, the authority shall reset such rate or  
 1506 fee prior to January 1, 2019, in compliance with subsection (d) of this Code section for all  
 1507 affected persons.

1508 (f) The authority, in the exercise of its administration and regulation related to the  
 1509 management of a right of way, shall be competitively neutral with regard to other similarly  
 1510 situated users of the right of way, and terms governing such authority's right of way shall  
 1511 not be unreasonable, discriminatory, and shall not violate any applicable law.

1512 (g) The authority may require a communications services provider to repair all damage to  
 1513 a right of way directly caused by the activities of said communications services provider,  
 1514 while occupying, installing, repairing, modifying, replacing, or maintaining  
 1515 communications services facilities in the right of way, and to return the right of way to its  
 1516 functional equivalence before the damage pursuant to the competitively neutral, reasonable  
 1517 requirements, and specifications of the authority. If the communications services provider  
 1518 fails to make such repairs required by the authority within 90 days after written notice, the  
 1519 authority may effect those repairs and charge the applicable party the reasonable,  
 1520 documented cost of such repairs.

1521 50-39-3.

1522 Any rates and fees for collocations charged by an authority on utility poles and wireless  
 1523 support structures shall be nondiscriminatory regardless of the services provided by the  
 1524 collocating communications services provider and shall not exceed 150 percent of the  
 1525 annual recurring rate permitted under rules and regulations adopted pursuant to 47 U.S.C.  
 1526 Section 224(d) by the Federal Communications Commission, as such existed on June 30,  
 1527 2018."

1528 **PART VII**  
 1529 **SECTION 7-1.**

1530 (a) Except as provided in subsection (b), this Act shall become effective on July 1, 2018.

1531 (b)(1) Part V of this Act shall become effective on July 1, 2018, and shall be applicable  
 1532 to all taxable years beginning on or after January 1, 2019.

1533 (2) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall  
1534 not be affected by the passage of Part V of this Act and shall continue to be governed by  
1535 the provisions of the Official Code of Georgia Annotated as it existed immediately prior  
1536 to the effective date of this Act.

1537 (3) Part V of this Act shall not abate any prosecution, punishment, penalty,  
1538 administrative proceedings or remedies, or civil action related to any violation of law  
1539 committed prior to January 1, 2019.

1540 **SECTION 7-2.**

1541 All laws and parts of laws in conflict with this Act are repealed.