

# SENATE BILL 746

C5, P1

(2lr2352)

## ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senator Middleton**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Telecommunications~~ Communications Companies – Universal Service Trust  
3 Fund – Surcharge

4 FOR the purpose of expanding the services that are subject to the Universal Service  
5 Trust Fund surcharge; requiring that a certain surcharge be applied to certain  
6 bills and be payable at a certain time; altering the maximum amount of a  
7 certain surcharge; providing that a certain surcharge is payable by account;  
8 requiring the ~~Public Service Commission~~ Secretary of Information Technology  
9 to direct certain companies to add the surcharge to certain bills for certain  
10 services under certain circumstances; providing that the money in the Fund  
11 may only be used for certain purposes; requiring the Public Service Commission  
12 to determine a certain surcharge annually for the following fiscal year;  
13 requiring the Commission to set and adjust a certain surcharge in a certain  
14 manner and under certain circumstances; requiring that certain funds be  
15 carried forward in the Fund for a certain purpose; requiring certain companies

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 to act as collection agents for the Fund and to remit certain proceeds to the  
 2 Comptroller for deposit in the Fund; providing certain companies a certain  
 3 credit against certain proceeds; providing that this Act may not be construed to  
 4 expand the jurisdiction of the Commission in any manner over certain services;  
 5 defining certain terms; making certain technical changes; and generally relating  
 6 to the Universal Service Trust Fund surcharge on certain ~~telecommunications~~  
 7 communications services.

8 BY repealing and reenacting, without amendments,  
 9 Article – State Finance and Procurement  
 10 Section 3A-501(a) ~~and (e)~~, 3A-504(a), 3A-601(a) and (c), 3A-602(a), and 3A-606  
 11 Annotated Code of Maryland  
 12 (2009 Replacement Volume and 2011 Supplement)

13 BY adding to  
 14 Article – State Finance and Procurement  
 15 Section ~~3A-501(g)~~ 3A-501(c) and ~~(i)~~ ~~(h)~~ (d)  
 16 Annotated Code of Maryland  
 17 (2009 Replacement Volume and 2011 Supplement)

18 BY repealing and reenacting, with amendments,  
 19 Article – State Finance and Procurement  
 20 Section ~~3A-501(g)~~ 3A-501(c) through (g) and 3A-506  
 21 Annotated Code of Maryland  
 22 (2009 Replacement Volume and 2011 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article – State Finance and Procurement**

26 3A-501.

27 (a) In this subtitle the following words have the meanings indicated.

28 **(C) “COMMUNICATIONS COMPANY” MEANS A PUBLIC SERVICE**  
 29 **COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE, OR ANY**  
 30 **OTHER COMPANY, THAT PROVIDES A COMMUNICATIONS SERVICE.**

31 **(D) “COMMUNICATIONS SERVICE” MEANS:**

32 **(1) LANDLINE TELEPHONE SERVICE;**

33 **(2) WIRELESS OR CELLULAR TELEPHONE SERVICE; OR**

1                   **(3) VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS**  
 2 **DEFINED IN § 8-601 OF THE PUBLIC UTILITIES ARTICLE.**

3           ~~(e)~~ **(E)**       “Dual party telephone relay program” means a service that  
 4 provides full and simultaneous communication between a person or persons with a  
 5 disability that prevents them from using a standard telephone and a person or persons  
 6 without that disability using conventional telephone equipment or other technology or  
 7 equipment, whereby the disabled person or persons have their message relayed  
 8 through an intermediary party using specialized telecommunications equipment.

9           ~~[(d)]~~ **(F)**       “Program” means the dual party telephone relay program.

10          ~~[(e)]~~ **(G)**       “Program participant” means a resident of the State who uses the  
 11 dual party telephone relay program.

12          ~~[(f)]~~ **(H)**       **(1)**   “Specialized customer telephone equipment” means any  
 13 communications device that enables or assists a person with a disability to  
 14 communicate with others by means of the public switched telephone network or Internet  
 15 protocol-enabled voice communications service.

16                   **(2)**   “Specialized customer telephone equipment” includes:

- 17                   **(i)**    TDD/TT/TTY;  
 18                   **(ii)**   amplifiers;  
 19                   **(iii)**   captioned telephones;  
 20                   **(iv)**   VRS equipment;  
 21                   **(v)**    cell phones;  
 22                   **(vi)**   paggers;  
 23                   **(vii)**   puff blow devices;  
 24                   **(viii)**   Braille-TTY devices; and  
 25                   **(ix)**   equipment for the mobility disabled.

26           ~~(G)~~   ~~“TELECOMMUNICATIONS COMPANY” MEANS A COMPANY THAT:~~

27           ~~(G)~~   ~~“COMMUNICATIONS COMPANY” MEANS:~~

28           ~~(1)~~   ~~IS:~~

~~(I) A PUBLIC SERVICE COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE; OR~~

~~(II) A WIRELESS COMMUNICATIONS COMPANY; OR~~

~~(III) AN INTERNET PROTOCOL TELEPHONY COMPANY; AND~~

~~(2) (I) PROVIDES FOR THE RECEPTION, TRANSMISSION, OR COMMUNICATION OF MESSAGES BY TELEPHONE OR OTHER DEVICE; OR~~

~~(II) LEASES, SELLS, OR RESELLS TELEPHONE OR TELECOMMUNICATIONS SERVICE.~~

~~(2) ANY COMPANY THAT PROVIDES A COMMUNICATIONS SERVICE.~~

~~(H) “COMMUNICATIONS SERVICE” MEANS:~~

~~(1) LANDLINE TELEPHONE SERVICE;~~

~~(2) WIRELESS OR CELLULAR TELEPHONE SERVICE; OR~~

~~(3) VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS DEFINED IN § 8-601 OF THE PUBLIC UTILITIES ARTICLE.~~

[(g)] ~~(H)~~ (I) “Telecommunications device for the deaf” or “TDD/TT/TTY” means all types of mechanical devices that enable disabled individuals to communicate through messages sent and received through a telephone or wireless network.

~~(I) “TELECOMMUNICATIONS SERVICE” MEANS:~~

~~(1) LANDLINE TELEPHONE SERVICE;~~

~~(2) WIRELESS TELEPHONE SERVICE; OR~~

~~(3) VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS DEFINED IN § 8-601 OF THE PUBLIC UTILITIES ARTICLE.~~

3A-504.

(a) The Department in consultation with the Board shall:

(1) establish and administer a program to provide cost-efficient, 24-hour, dual party relay service to program participants at a comparable level of access and quality that a standard telecommunication service provides to a person without a hearing or speech disability;

1 (2) develop the program in collaboration with State programs  
 2 currently serving disabled individuals and with community agencies or other  
 3 organizations that have established relay programs; and

4 (3) maintain an information and referral service to provide  
 5 information about the availability of the relay service.

6 3A-506.

7 (a) The programs under § 3A-504(a) of this subtitle and § 3A-602(a) of this  
 8 title shall be funded as provided in the State budget.

9 (b) (1) There is a Universal Service Trust Fund created for the purpose of  
 10 paying the costs of maintaining and operating the program under § 3A-504(a) of this  
 11 subtitle subject to the limitations and controls provided in this subtitle, and the  
 12 program under § 3A-602(a) of this title subject to the limitations and controls provided  
 13 in Subtitle 6 of this title.

14 (2) Moneys in the Universal Service Trust Fund shall be held in the  
 15 State Treasury.

16 (3) MONEY IN THE UNIVERSAL SERVICE TRUST FUND MAY ONLY  
 17 BE USED:

18 (I) TO FUND THE COSTS OF THE PROGRAMS SPECIFIED IN  
 19 PARAGRAPH (1) OF THIS SUBSECTION; AND

20 (II) TO PAY FOR THE ADMINISTRATION OF THE UNIVERSAL  
 21 SERVICE TRUST FUND.

22 (c) (1) The costs of the programs under § 3A-504(a) of this subtitle and §  
 23 3A-602(a) of this title shall be funded by revenues generated by:

24 (I) a surcharge to be paid by the subscribers to [switched local  
 25 exchange access] A ~~TELECOMMUNICATIONS~~ COMMUNICATIONS service; and [by]

26 (II) other funds as [the] **PROVIDED IN THE STATE** budget [may  
 27 provide].

28 (2) (I) The surcharge may not exceed ~~45~~ ~~35~~ 18 cents per month  
 29 **FOR EACH ACCOUNT** and shall be applied to all current bills rendered for [switched  
 30 local exchange access] ~~TELECOMMUNICATIONS~~ A COMMUNICATIONS service in the  
 31 State.

1 (II) The surcharge is payable at the time the bills for [telephone]  
2 ~~TELECOMMUNICATIONS~~ A COMMUNICATIONS service are due.

3 (3) THE SURCHARGE TO BE COLLECTED UNDER THIS SECTION  
4 ONLY APPLIES TO A COMMUNICATIONS SERVICE FOR WHICH CHARGES ARE  
5 BILLED BY, OR ON BEHALF OF, A COMMUNICATIONS COMPANY TO A SUBSCRIBER  
6 OF THE COMMUNICATIONS SERVICE.

7 (d) (1) The Secretary shall annually certify to the Public Service  
8 Commission the costs of the programs under § 3A-504(a) of this subtitle and §  
9 3A-602(a) of this title to be paid by the Universal Service Trust Fund FOR THE  
10 FOLLOWING FISCAL YEAR.

11 (2) (I) The Public Service Commission shall determine the  
12 surcharge FOR THE FOLLOWING FISCAL YEAR necessary to fund the programs under  
13 § 3A-504(a) of this subtitle and § 3A-602(a) of this title [and].

14 (II) 1. IN ACCORDANCE WITH SUBSECTION (C)(2) AND  
15 SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE  
16 COMMISSION SHALL SET THE SURCHARGE FOR THE FOLLOWING FISCAL YEAR  
17 AT AN AMOUNT THAT IS NO HIGHER THAN NECESSARY TO GENERATE  
18 SUFFICIENT REVENUES TO FUND THE COSTS OF THE PROGRAMS FOR THE  
19 FOLLOWING FISCAL YEAR, AS CERTIFIED UNDER PARAGRAPH (1) OF THIS  
20 SUBSECTION.

21 2. IN SETTING THE SURCHARGE UNDER  
22 SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE  
23 COMMISSION SHALL TAKE INTO ACCOUNT WHETHER THE SURCHARGE MAY BE  
24 ADJUSTED AS A RESULT OF ANY UNCOMMITTED FUNDS IN THE UNIVERSAL  
25 SERVICE TRUST FUND AT THE END OF THE FISCAL YEAR THAT MAY BE USED TO  
26 FUND THE COSTS OF THE PROGRAMS FOR THE FOLLOWING FISCAL YEAR.

27 (3) ~~(I)~~ THE PUBLIC SERVICE COMMISSION SECRETARY shall,  
28 on 60 days' notice, direct the affected [telephone] ~~TELECOMMUNICATIONS~~  
29 COMMUNICATIONS companies ~~THAT ARE PUBLIC SERVICE COMPANIES~~ to add the  
30 surcharge DETERMINED BY THE PUBLIC SERVICE COMMISSION UNDER  
31 PARAGRAPH (2) OF THIS SUBSECTION to all current bills rendered for [switched  
32 local exchange access] ~~TELECOMMUNICATIONS~~ COMMUNICATIONS service in the  
33 State.

34 ~~(II) 1. IN ACCORDANCE WITH SUBSUBPARAGRAPH 2 OF~~  
35 ~~THIS SUBPARAGRAPH, THE SECRETARY SHALL, ON 60 DAYS' NOTICE, DIRECT~~  
36 ~~THE AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE NOT PUBLIC~~

1 ~~SERVICE COMPANIES TO ADD THE SURCHARGE TO ALL CURRENT BILLS~~  
2 ~~RENDERED FOR TELECOMMUNICATIONS SERVICE IN THE STATE.~~

3 ~~2. THE AMOUNT OF THE SURCHARGE ADDED TO~~  
4 ~~CURRENT BILLS BY AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE~~  
5 ~~NOT PUBLIC SERVICE COMPANIES SHALL BE THE SAME AMOUNT AS THE~~  
6 ~~AMOUNT OF THE SURCHARGE ADDED TO CURRENT BILLS BY AFFECTED~~  
7 ~~TELECOMMUNICATIONS COMPANIES THAT ARE PUBLIC SERVICE COMPANIES.~~

8 (e) (1) The affected [telephone] ~~TELECOMMUNICATIONS~~  
9 COMMUNICATIONS companies shall act as collection agents for the Universal Service  
10 Trust Fund and shall remit all proceeds monthly to the Comptroller for deposit to the  
11 Universal Service Trust Fund.

12 (2) The [telephone] ~~TELECOMMUNICATIONS~~ COMMUNICATIONS  
13 companies shall be entitled to credit against these proceeds in an amount equal to 1  
14 1/2 percent of these proceeds to cover the expenses of billing, collecting, and remitting  
15 the surcharge and any additional charges.

16 (f) (1) The Secretary shall administer the Universal Service Trust Fund.

17 (2) The income derived from investment of money in the UNIVERSAL  
18 SERVICE TRUST Fund shall accrue to the UNIVERSAL SERVICE TRUST Fund.

19 (3) ANY FUNDS REMAINING AT THE END OF A FISCAL YEAR IN THE  
20 UNIVERSAL SERVICE TRUST FUND SHALL BE CARRIED FORWARD WITHIN THE  
21 UNIVERSAL SERVICE TRUST FUND FOR THE MAINTENANCE AND OPERATION OF  
22 THE PROGRAMS SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION IN THE  
23 FOLLOWING FISCAL YEAR.

24 (g) (1) The Legislative Auditor shall conduct postaudits of a fiscal and  
25 compliance nature of the Universal Service Trust Fund and the expenditures made for  
26 purposes of § 3A-504(a) of this subtitle and § 3A-602(a) of this title.

27 (2) The cost of the fiscal portion of the postaudit examination shall be  
28 paid from the Universal Service Trust Fund as an administrative cost.

29 3A-601.

30 (a) In this subtitle the following words have the meanings indicated.

31 (c) "Program" means the program developed and administered by the  
32 Department in consultation with the Board and the Department of Disabilities to  
33 provide financial assistance for the purchase of specialized customer telephone  
34 equipment by eligible program participants.

1 3A-602.

2 (a) In accordance with the State budget and § 3A-506 of this title, the  
3 Department, in consultation with the Board and the Department of Disabilities, shall  
4 establish and administer a program:

5 (1) to provide specialized customer telephone equipment to eligible  
6 program participants; and

7 (2) to provide reimbursement of costs under § 3A-606 of this subtitle.

8 3A-606.

9 (a) The Department in consultation with the Board and the Department of  
10 Disabilities shall enter into an agreement with the State Department of Education,  
11 Division of Library Development and Services, providing for an annual payment to be  
12 made to the Division in an amount equal to the cost incurred for the distribution of  
13 newspapers in a computerized audio format.

14 (b) Under the agreement, the Division of Library Development and Services  
15 shall provide eligible blind and disabled individuals with access to newspapers in a  
16 computerized audio format by a qualified entity.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be  
18 construed to expand the jurisdiction of the Public Service Commission in any manner  
19 over wireless or cellular telephone service or Voice over Internet Protocol (VoIP)  
20 service.

21 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
22 effect July 1, 2012.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.