

## Chapter 571

(Senate Bill 746)

AN ACT concerning

### ~~Telecommunications~~ Communications Companies – Universal Service Trust Fund – Surcharge

FOR the purpose of expanding the services that are subject to the Universal Service Trust Fund surcharge; requiring that a certain surcharge be applied to certain bills and be payable at a certain time; altering the maximum amount of a certain surcharge; providing that a certain surcharge is payable by account; requiring the ~~Public Service Commission~~ Secretary of Information Technology to direct certain companies to add the surcharge to certain bills for certain services under certain circumstances; providing that the money in the Fund may only be used for certain purposes; requiring the Public Service Commission to determine a certain surcharge annually for the following fiscal year; requiring the Commission to set and adjust a certain surcharge in a certain manner and under certain circumstances; requiring that certain funds be carried forward in the Fund for a certain purpose; requiring certain companies to act as collection agents for the Fund and to remit certain proceeds to the Comptroller for deposit in the Fund; providing certain companies a certain credit against certain proceeds; providing that this Act may not be construed to expand the jurisdiction of the Commission in any manner over certain services; defining certain terms; making certain technical changes; and generally relating to the Universal Service Trust Fund surcharge on certain ~~telecommunications~~ communications services.

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 3A-501(a) ~~and (c)~~, 3A-504(a), 3A-601(a) and (c), 3A-602(a), and 3A-606

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Finance and Procurement

Section ~~3A-501(g)~~ 3A-501(c) and ~~(h)~~ (d)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section ~~3A-501(g)~~ 3A-501(c) through (g) and 3A-506

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

**Article – State Finance and Procurement**

3A-501.

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

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

**(D) “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.**

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

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

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

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

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

**(i) TDD/TT/TTY;**

- (ii) amplifiers;*
- (iii) captioned telephones;*
- (iv) VRS equipment;*
- (v) cell phones;*
- (vi) pagers;*
- (vii) puff blow devices;*
- (viii) Braille-TTY devices; and*
- (ix) equipment for the mobility disabled.*

~~(G) "TELECOMMUNICATIONS COMPANY" MEANS A COMPANY THAT:~~

~~(G) "COMMUNICATIONS COMPANY" MEANS:~~

~~(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;

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

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

3A-506.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(II) 1. IN ACCORDANCE WITH SUBSECTION (C)(2) AND SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE COMMISSION SHALL SET THE SURCHARGE FOR THE FOLLOWING FISCAL YEAR AT AN AMOUNT THAT IS NO HIGHER THAN NECESSARY TO GENERATE**

SUFFICIENT REVENUES TO FUND THE COSTS OF THE PROGRAMS FOR THE FOLLOWING FISCAL YEAR, AS CERTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

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

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

~~(H) 1. IN ACCORDANCE WITH SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE SECRETARY SHALL, ON 60 DAYS' NOTICE, DIRECT THE AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE NOT PUBLIC SERVICE COMPANIES TO ADD THE SURCHARGE TO ALL CURRENT BILLS RENDERED FOR TELECOMMUNICATIONS SERVICE IN THE STATE.~~

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

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

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

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

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

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

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

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

3A-601.

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

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

3A-602.

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

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

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

3A-606.

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

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

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

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

**Approved by the Governor, May 22, 2012.**