

HOUSE BILL 1020

C5, C2, L6

9lr2089
CF SB 713

By: **Delegates Lisanti, Adams, Arentz, Carey, Charkoudian, Ciliberti, Fennell, Christ, Gilchrist, Glenn, Hartman, Ivey, Johnson, Krimm, Palakovich Carr, Qi, and Wivell**

Introduced and read first time: February 8, 2019

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Wireless Facilities – Permitting and Siting**

3 FOR the purpose of establishing procedures and requirements for the permitting,
4 installation, and regulation of certain wireless telecommunications facilities in the
5 State; authorizing a wireless provider to install and maintain certain facilities and
6 equipment in certain rights-of-way in accordance with certain provisions;
7 prohibiting the use of a public right-of-way from obstructing or hindering certain
8 other uses; prohibiting a certain local law from generally prohibiting the installation
9 of certain facilities and equipment or discriminating among certain providers and
10 services; authorizing an authority to adopt certain requirements or standards
11 governing the installation of certain facilities and equipment in a certain manner;
12 requiring a wireless provider to obtain certain approvals before collocating certain
13 facilities or installing or modifying certain facilities or equipment; authorizing an
14 authority to require certain applications and documents in connection with certain
15 applications; authorizing an authority to allow the filing and consideration of certain
16 consolidated applications; authorizing an authority to require that certain facilities
17 and equipment be operational within a certain period; authorizing the cancellation
18 of a certain approval in a certain manner; providing for the approval or disapproval
19 of certain applications within certain periods; authorizing a certain applicant to file
20 an action in a certain court under certain circumstances; authorizing an authority to
21 provide public notice and hearing before approval of an application; requiring an
22 applicant to be represented at a certain public hearing for certain purposes;
23 requiring an applicant to respond to certain inquiries about an application in a
24 timely manner; requiring an authority to notify an applicant of the basis of denying
25 an application in a certain manner; authorizing an authority to provide the option to
26 a wireless provider of performing certain make-ready work by certain means;
27 providing for the reimbursement to the authority of certain costs under certain
28 circumstances; requiring a wireless provider to promptly repair certain damages and
29 return certain rights-of-way to certain conditions under certain circumstances;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 requiring a wireless provider to notify an authority of certain decisions to remove
2 certain facilities and equipment; requiring a wireless provider to remove certain
3 facilities and equipment from a certain right-of-way under certain circumstances;
4 authorizing an authority to remove certain abandoned facilities and equipment and
5 charge a wireless provider for certain costs; authorizing an authority to charge a
6 wireless provider for certain costs, subject to certain limitations; requiring a wireless
7 provider to indemnify and hold harmless an authority and certain persons against
8 certain loss, damage, or liability; authorizing an authority to require a wireless
9 provider to carry certain insurance, to include the authority as an additional insured,
10 and to provide that the authority and certain persons are immune from certain
11 liability; authorizing an authority to adopt certain surety bonding requirements for
12 certain purposes; establishing the Digital Inclusion Fund as a special, nonlapsing
13 fund; specifying the purpose of the Fund; requiring the Secretary of Housing and
14 Community Development to administer the Fund; requiring the State Treasurer to
15 hold the Fund and the Comptroller to account for the Fund; specifying the contents
16 of the Fund; specifying the purpose for which the Fund may be used; providing for
17 the investment of money in and expenditures from the Fund; requiring the Secretary
18 to adopt certain regulations; establishing a certain surcharge on certain wireless
19 producers; establishing the amount of the surcharge; requiring the surcharge to be
20 deposited in the Fund; providing that the Comptroller shall administer the
21 surcharge; authorizing the Comptroller to adopt certain regulations; providing that
22 certain provisions of law apply to the administration of the surcharge; providing that
23 certain circuit courts have jurisdiction over certain matters under this Act; requiring
24 a circuit court to adjudicate certain actions within a certain time period; providing
25 for the appeal of certain matters in a certain manner; providing that certain local
26 laws and agreements prevail over this Act; providing that this Act is not subject to
27 the jurisdiction of the Public Service Commission; providing for the construction of
28 this Act; excluding this Act from the application of certain penalties; defining certain
29 terms; providing for a delayed effective date; and generally relating to wireless
30 telecommunications facilities.

31 BY adding to

32 Article – Public Utilities

33 Section 8–701 through 8–719 to be under the new subtitle “Subtitle 7. Wireless
34 Facilities”

35 Annotated Code of Maryland

36 (2010 Replacement Volume and 2018 Supplement)

37 BY repealing and reenacting, with amendments,

38 Article – Public Utilities

39 Section 13–101 and 13–201

40 Annotated Code of Maryland

41 (2010 Replacement Volume and 2018 Supplement)

42 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

43 That the Laws of Maryland read as follows:

Article – Public Utilities

SUBTITLE 7. WIRELESS FACILITIES.

8–701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “ANTENNA” MEANS AN APPARATUS DESIGNED TO EMIT RADIOFREQUENCY RADIATION AND OPERATE FROM A FIXED LOCATION TO PROVIDE WIRELESS SERVICES.

(2) “ANTENNA” INCLUDES MATERIALS USED FOR ARRANGING, SCREENING, AND CAMOUFLAGING ANTENNA EQUIPMENT.

(C) “ANTENNA EQUIPMENT” MEANS EQUIPMENT, SWITCHES, WIRING, CABLING, POWER SOURCES, SHELTERS, OR CABINETS ASSOCIATED WITH AN ANTENNA AND LOCATED AT THE SAME FIXED LOCATION AS THE ANTENNA.

(D) (1) “APPLICABLE STANDARDS” MEANS ENGINEERING AND SAFETY STANDARDS, INCLUDING BUILDING, FIRE, SAFETY, ELECTRICAL, PLUMBING, AND MECHANICAL CODES ADOPTED BY AN AUTHORITY THAT MAY REGULATE OR OTHERWISE AFFECT THE INSTALLATION, MAINTENANCE, AND OPERATION OF THE FACILITIES AUTHORIZED OR AFFECTED BY THIS SUBTITLE.

(2) “APPLICABLE STANDARDS” INCLUDES THE REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION AND THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION AS WELL AS ANY LOCAL STANDARDS OR REGULATIONS GOVERNING THE USE OF RIGHTS–OF–WAY.

(E) (1) “AUTHORITY” MEANS A COUNTY, A MUNICIPAL CORPORATION, THE STATE, OR AN INSTRUMENTALITY OF THE STATE THAT MAY APPROVE THE INSTALLATION OF WIRELESS FACILITIES OR POLES ON PUBLIC RIGHTS–OF–WAY.

(2) “AUTHORITY” DOES NOT INCLUDE A UTILITY OWNED BY A COUNTY OR MUNICIPAL CORPORATION.

(F) “COLLOCATE” MEANS TO INSTALL OR MOUNT A WIRELESS FACILITY ON A POLE.

(G) (1) “MAKE–READY WORK” MEANS WORK THAT AN AUTHORITY REASONABLY DETERMINES TO BE REQUIRED TO ACCOMMODATE A WIRELESS PROVIDER’S INSTALLATION UNDER THIS SUBTITLE AND TO COMPLY WITH ALL

1 **APPLICABLE STANDARDS.**

2 **(2) "MAKE-READY WORK" INCLUDES:**

3 **(I) REPAIR, REARRANGEMENT, REPLACEMENT, AND**
4 **CONSTRUCTION OF A POLE;**

5 **(II) INSPECTIONS;**

6 **(III) ENGINEERING WORK AND CERTIFICATION;**

7 **(IV) PERMITTING WORK;**

8 **(V) TREE TRIMMING OTHER THAN TRIMMING PERFORMED FOR**
9 **NORMAL MAINTENANCE PURPOSES;**

10 **(VI) SITE PREPARATION; AND**

11 **(VII) ELECTRICAL POWER CONFIGURATION.**

12 **(3) "MAKE-READY WORK" DOES NOT INCLUDE A WIRELESS**
13 **PROVIDER'S ROUTINE MAINTENANCE.**

14 **(H) "PERSON" DOES NOT INCLUDE AN AUTHORITY.**

15 **(I) "POLE" MEANS A POLE OR SIMILAR STRUCTURE THAT IS USED OR IS**
16 **CAPABLE OF BEING USED, AS AN AUTHORITY DETERMINES, WHOLLY OR PARTLY FOR**
17 **THE COLLOCATION OF A WIRELESS FACILITY.**

18 **(J) (1) "PRECONSTRUCTION SURVEY" MEANS ALL WORK OR OPERATIONS**
19 **REQUIRED BY APPLICABLE STANDARDS OR AN AUTHORITY TO DETERMINE THE**
20 **MAKE-READY WORK NECESSARY TO ACCOMMODATE A WIRELESS PROVIDER'S**
21 **FACILITIES.**

22 **(2) "PRECONSTRUCTION SURVEY" INCLUDES FIELD INSPECTION AND**
23 **ADMINISTRATIVE PROCESSING.**

24 **(K) "SURETY BOND" MEANS A PERFORMANCE BOND ISSUED BY A**
25 **COMMERCIAL SURETY THAT GUARANTEES THERE WILL BE FUNDS AVAILABLE:**

26 **(1) FOR THE REMOVAL OF ABANDONED OR IMPROPERLY MAINTAINED**
27 **WIRELESS FACILITIES OR POLES; OR**

1 **(2) TO RECOUP RATES OR FEES PAYABLE TO THE AUTHORITY.**

2 **(L) (1) “WIRELESS FACILITY” MEANS EQUIPMENT AT A FIXED LOCATION**
3 **THAT ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A**
4 **COMMUNICATIONS NETWORK.**

5 **(2) “WIRELESS FACILITY” INCLUDES:**

6 **(I) EQUIPMENT ASSOCIATED WITH WIRELESS**
7 **COMMUNICATIONS; AND**

8 **(II) ANY RADIO TRANSCEIVER, ANTENNA, COAXIAL OR**
9 **FIBER–OPTIC CABLE, REGULAR OR BACKUP POWER SUPPLY, AND COMPARABLE**
10 **EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION.**

11 **(3) “WIRELESS FACILITY” DOES NOT INCLUDE:**

12 **(I) THE STRUCTURE OR IMPROVEMENTS ON, UNDER, OR**
13 **WITHIN WHICH THE EQUIPMENT IS LOCATED;**

14 **(II) A POLE; OR**

15 **(III) COAXIAL OR FIBER–OPTIC CABLE THAT IS:**

16 **1. LOCATED BETWEEN WIRELESS STRUCTURES OR**
17 **POLES; OR**

18 **2. NOT OTHERWISE IMMEDIATELY ADJACENT TO OR**
19 **DIRECTLY ASSOCIATED WITH A PARTICULAR ANTENNA.**

20 **(M) “WIRELESS PROVIDER” MEANS A PERSON THAT INSTALLS OR HAS**
21 **INSTALLED ON THE PERSON’S BEHALF WIRELESS FACILITIES OR POLES TO PROVIDE**
22 **WIRELESS SERVICES.**

23 **(N) “WIRELESS SERVICES” MEANS ANY SERVICES PROVIDED TO THE**
24 **PUBLIC USING LICENSED OR UNLICENSED SPECTRUM, WHETHER AT A FIXED**
25 **LOCATION OR USING MOBILE EQUIPMENT.**

26 **8–702.**

27 **EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS OF THIS**
28 **SUBTITLE ARE NOT SUBJECT TO THE JURISDICTION OF THE COMMISSION.**

1 **8-703.**

2 (A) A WIRELESS PROVIDER MAY INSTALL AND MAINTAIN WIRELESS
3 FACILITIES AND POLES IN A PUBLIC RIGHT-OF-WAY IN ACCORDANCE WITH ANY
4 APPLICABLE LOCAL LAW OR REGULATIONS, FRANCHISES, PERMITS, LICENSES,
5 AGREEMENTS, OR OTHER APPROVALS REQUIRED BY AN AUTHORITY.

6 (B) THE USE OF A PUBLIC RIGHT-OF-WAY OR THE ATTACHMENT OF
7 WIRELESS FACILITIES TO PUBLIC ASSETS BY A WIRELESS PROVIDER MAY NOT
8 OBSTRUCT OR HINDER:

9 (1) THE TRAVEL OR PUBLIC SAFETY ON THE PUBLIC RIGHT-OF-WAY;
10 OR

11 (2) THE LEGAL USE OF THE PUBLIC RIGHT-OF-WAY OR PUBLIC
12 ASSETS BY OTHERS.

13 (C) THE APPLICABLE LOCAL LAW AND REGULATION PROVIDED IN
14 SUBSECTION (A) OF THIS SECTION:

15 (1) MAY NOT GENERALLY PROHIBIT THE INSTALLATION OF ALL
16 WIRELESS FACILITIES OR POLES IN THE PUBLIC RIGHT-OF-WAY OR ON PRIVATE
17 PROPERTY; AND

18 (2) MAY NOT DISCRIMINATE AMONG WIRELESS PROVIDERS OF
19 FUNCTIONALLY EQUIVALENT WIRELESS SERVICES.

20 **8-704.**

21 (A) AN AUTHORITY MAY ADOPT DESIGN AND AESTHETIC REQUIREMENTS OR
22 STANDARDS THAT GOVERN THE INSTALLATION OF WIRELESS FACILITIES AND
23 POLES.

24 (B) THE REQUIREMENTS OR STANDARDS MAY INCLUDE:

25 (1) THE APPEARANCE OF WIRELESS FACILITIES, INCLUDING THOSE
26 RELATING TO MATERIALS USED FOR ARRANGING, SCREENING, LANDSCAPING, AND
27 CAMOUFLAGING;

28 (2) THE LOCATION OF WIRELESS FACILITIES, INCLUDING SPACING
29 REQUIREMENTS BETWEEN WIRELESS FACILITIES;

30 (3) THE HEIGHT OF WIRELESS FACILITIES;

1 (4) THE DESIGN AND APPEARANCE OF POLES OWNED BY A WIRELESS
2 PROVIDER;

3 (5) THE LOCATION OF POLES, INCLUDING SPACING REQUIREMENTS
4 BETWEEN POLES;

5 (6) THE HEIGHT OF POLES;

6 (7) THE UNDERGROUNDING OF WIRELESS FACILITIES; AND

7 (8) ANY OTHER DESIGN OR AESTHETIC REQUIREMENT THAT SEEKS
8 TO PRESERVE THE VISUAL CHARACTER OF A NEIGHBORHOOD THAT MAY BE
9 AFFECTED BY THE INSTALLATION OF A WIRELESS FACILITY OR POLE.

10 (C) THE DESIGN AND AESTHETIC REQUIREMENTS OR STANDARDS OF AN
11 AUTHORITY MAY NOT HAVE THE EFFECT OF PROHIBITING ANY WIRELESS
12 PROVIDER'S WIRELESS SERVICE.

13 (D) ANY ADOPTED DESIGN AND AESTHETIC REQUIREMENTS OR STANDARDS
14 SHALL BE PUBLISHED IN ADVANCE OF THEIR EFFECTIVE DATE.

15 **8-705.**

16 (A) A WIRELESS PROVIDER SHALL BE REQUIRED TO OBTAIN ANY
17 APPROVALS, INCLUDING FRANCHISES, PERMITS, LICENSES, LEASES, AND
18 AGREEMENTS, THAT MAY BE REQUIRED BY AN AUTHORITY BEFORE:

19 (1) THE COLLOCATION OF A WIRELESS FACILITY;

20 (2) THE ATTACHMENT OF A WIRELESS FACILITY TO A POLE OWNED BY
21 AN AUTHORITY;

22 (3) THE INSTALLATION OF A POLE; OR

23 (4) THE MODIFICATION OF A WIRELESS FACILITY OR A POLE.

24 (B) THE APPLICATIONS AND DOCUMENTS THAT AN AUTHORITY MAY
25 REQUIRE MAY INCLUDE:

26 (1) DETAILED PLANS DESCRIBING THE COLLOCATION,
27 MODIFICATION, OR ATTACHMENT, INCLUDING ANY CERTIFICATIONS THAT MAY BE
28 REQUIRED;

1 **(2) A PRECONSTRUCTION SURVEY;**

2 **(3) A DESCRIPTION OF ANY NECESSARY MAKE-READY WORK;**

3 **(4) A PROPOSED SCHEDULE FOR COMPLETION, CERTIFIED BY A**
4 **LICENSED PROFESSIONAL ENGINEER; AND**

5 **(5) ANY OTHER INFORMATION REQUIRED BY AN AUTHORITY THAT**
6 **WILL ALLOW THE AUTHORITY TO PROPERLY EVALUATE:**

7 **(I) THE SAFETY OF THE INSTALLATION, MODIFICATION, OR**
8 **ATTACHMENT;**

9 **(II) THE EFFECT, IF ANY, ON THE PUBLIC RIGHT-OF-WAY; AND**

10 **(III) THE COMPATIBILITY OF THE INSTALLATION IN THE**
11 **NEIGHBORHOOD IN WHICH THE INSTALLATION IS TO BE LOCATED.**

12 **(C) AN AUTHORITY MAY ALLOW A WIRELESS PROVIDER TO FILE A**
13 **CONSOLIDATED APPLICATION FOR ALL WIRELESS FACILITIES TO BE COLLOCATED**
14 **WITHIN THE JURISDICTION CONTROLLED BY THE AUTHORITY UNDER RULES AND**
15 **GUIDELINES ESTABLISHED BY THE AUTHORITY.**

16 **8-706.**

17 **(A) AS PART OF THE APPLICATION PROCESS, AN AUTHORITY MAY REQUIRE**
18 **A WIRELESS FACILITY TO BE FULLY OPERATIONAL WITHIN 120 DAYS AFTER THE**
19 **DATE THE LAST OR FINAL PERMIT IS ISSUED, UNLESS THE AUTHORITY AND THE**
20 **APPLICANT AGREE TO EXTEND THE PERIOD.**

21 **(B) THE FAILURE OF A WIRELESS FACILITY TO OPERATE IN THE TIME**
22 **ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL ALLOW THE**
23 **AUTHORITY TO:**

24 **(1) CANCEL THE AUTHORITY'S APPROVAL OF THE WIRELESS**
25 **FACILITY; AND**

26 **(2) CAUSE THE REMOVAL OF THE WIRELESS FACILITY BY THE**
27 **WIRELESS PROVIDER AT THE WIRELESS PROVIDER'S SOLE EXPENSE AND IN A TIME**
28 **THE AUTHORITY SPECIFIES.**

29 **8-707.**

1 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN
2 APPLICATION TO INSTALL A WIRELESS FACILITY SHALL BE APPROVED OR
3 DISAPPROVED BY THE AUTHORITY WITHIN THE TIME FRAME ESTABLISHED IN
4 FEDERAL LAW OR REGULATION.

5 (B) IN THE ABSENCE OF FEDERAL LAW OR REGULATION, AN APPLICATION
6 THAT IS DEEMED COMPLETE BY AN AUTHORITY SHALL BE APPROVED OR
7 DISAPPROVED WITHIN 180 DAYS AFTER THE RECEIPT OF THE COMPLETE
8 APPLICATION.

9 **8-708.**

10 IF AN AUTHORITY FAILS TO ACT ON A COMPLETE APPLICATION AS PROVIDED
11 IN § 8-706 OF THIS SUBTITLE, THE APPLICANT MAY FILE AN ACTION IN THE CIRCUIT
12 COURT FOR THE COUNTY IN WHICH THE AUTHORITY IS LOCATED AS PROVIDED IN
13 THIS SUBTITLE ALLEGING A VIOLATION OF THIS SUBTITLE.

14 **8-709.**

15 (A) AN AUTHORITY MAY ELECT TO PROVIDE PUBLIC NOTICE OF AN
16 APPLICATION AND HOLD A PUBLIC HEARING BEFORE THE APPROVAL OF AN
17 APPLICATION.

18 (B) IF AN AUTHORITY ELECTS TO HOLD A PUBLIC HEARING ON AN
19 APPLICATION, THE APPLICANT SHALL BE REPRESENTED AT THE PUBLIC HEARING
20 AND BE AVAILABLE TO ANSWER INQUIRIES ABOUT THE APPLICATION.

21 (C) IF THE AUTHORITY RECEIVES WRITTEN INQUIRIES ABOUT AN
22 APPLICATION, IT MAY ELECT TO FORWARD THE WRITTEN INQUIRIES TO THE
23 APPLICANT FOR A RESPONSE, AND THE APPLICANT MUST RESPOND IN A TIMELY
24 MANNER.

25 (D) IF THE APPLICANT AGREES, THE TIME FOR APPROVING OR DENYING AN
26 APPLICATION CAN BE EXTENDED AN ADDITIONAL 10 BUSINESS DAYS FOLLOWING A
27 PUBLIC HEARING.

28 **8-710.**

29 IF AN AUTHORITY DENIES A PERMIT, THE AUTHORITY SHALL NOTIFY THE
30 APPLICANT IN WRITING OF THE BASIS FOR THE DENIAL, INCLUDING ANY
31 DOCUMENTATION REGARDING THE DENIAL.

1 8-711.

2 (A) AN AUTHORITY MAY PROVIDE A WIRELESS PROVIDER THE OPTION OF
3 EITHER HAVING THE WIRELESS PROVIDER PERFORM ANY NECESSARY MAKE-READY
4 WORK THROUGH THE USE OF QUALIFIED CONTRACTORS AUTHORIZED BY THE
5 AUTHORITY, OR HAVING THE AUTHORITY PERFORM ANY NECESSARY MAKE-READY
6 WORK AT THE SOLE COST OF THE WIRELESS PROVIDER.

7 (B) ON COMPLETION OF THE MAKE-READY WORK PERFORMED BY AN
8 AUTHORITY AT THE REQUEST OF A WIRELESS PROVIDER, THE WIRELESS PROVIDER
9 SHALL REIMBURSE THE AUTHORITY FOR THE AUTHORITY'S ACTUAL AND
10 DOCUMENTED COST OF THE MAKE-READY WORK.

11 8-712.

12 A WIRELESS PROVIDER SHALL BE REQUIRED TO PROMPTLY:

13 (1) REPAIR ANY DAMAGE TO THE PUBLIC RIGHT-OF-WAY OR ANY
14 DAMAGES TO FACILITIES IN THE RIGHT-OF-WAY DIRECTLY CAUSED BY THE
15 ACTIVITIES OF THE WIRELESS PROVIDER; AND

16 (2) RETURN THE RIGHT-OF-WAY TO THE RIGHT-OF-WAY'S
17 CONDITION BEFORE THE DAMAGES CAUSED BY THE WIRELESS PROVIDER.

18 8-713.

19 (A) A WIRELESS PROVIDER SHALL NOTIFY AN AUTHORITY WITHIN 30 DAYS
20 AFTER A DECISION TO REMOVE FROM SERVICE A WIRELESS FACILITY OR A POLE
21 LOCATED ON A PUBLIC RIGHT-OF-WAY.

22 (B) A WIRELESS PROVIDER SHALL REMOVE A WIRELESS FACILITY OR A
23 POLE THAT IS NO LONGER NEEDED FOR SERVICE AND LOCATED ON A PUBLIC
24 RIGHT-OF-WAY AT THE SOLE COST AND EXPENSE OF THE WIRELESS PROVIDER.

25 (C) IF AN AUTHORITY CONCLUDES THAT A WIRELESS FACILITY OR A POLE
26 HAS BEEN ABANDONED IN PLACE, THE AUTHORITY MAY REMOVE THE WIRELESS
27 FACILITY OR POLE AND CHARGE THE WIRELESS PROVIDER FOR THE ACTUAL AND
28 DOCUMENTED COST INCURRED BY THE AUTHORITY FOR REMOVAL.

29 (D) UNTIL A WIRELESS FACILITY OR A POLE THAT IS LOCATED ON A PUBLIC
30 RIGHT-OF-WAY IS REMOVED FROM THE PUBLIC RIGHT-OF-WAY, A WIRELESS
31 PROVIDER SHALL PAY ALL FEES AND CHARGES DUE THE AUTHORITY, REGARDLESS
32 OF WHETHER A WIRELESS FACILITY IS OPERATIONAL.

1 8-714.

2 (A) AN AUTHORITY MAY CHARGE A WIRELESS PROVIDER:

3 (1) FOR THE COSTS OF PROCESSING APPLICATIONS AND PERMITS;

4 (2) FOR THE ATTACHMENT OR USE OF A POLE OWNED BY THE
5 AUTHORITY;

6 (3) FOR THE PRIVILEGE OF USING A PUBLIC RIGHT-OF-WAY
7 (FRANCHISE); AND

8 (4) FOR THE COST OF RELOCATING WIRELESS FACILITIES OR POLES
9 WHEN RELOCATION IS REQUIRED BY THE ALTERATION OF A PUBLIC RIGHT-OF-WAY
10 OR ITS APPURTENANCE.

11 (B) THE ATTACHMENT OR USE CHARGE UNDER SUBSECTION (A)(2) OF THIS
12 SECTION MAY NOT EXCEED THE GREATER OF:

13 (1) \$2,500; OR

14 (2) 2% OF THE GROSS REVENUE REALIZED BY A WIRELESS PROVIDER
15 FROM THE USE OF THE POLE.

16 8-715.

17 (A) A WIRELESS PROVIDER SHALL INDEMNIFY AND HOLD HARMLESS THE
18 AUTHORITY AND ITS OFFICERS AND EMPLOYEES AGAINST ANY LOSS, DAMAGE, OR
19 LIABILITY RESULTING FROM THE WIRELESS FACILITY OR POLE.

20 (B) DURING THE PERIOD IN WHICH THE FACILITIES OF A WIRELESS
21 PROVIDER ARE LOCATED ON OR ATTACHED TO THE AUTHORITY'S ASSETS OR
22 RIGHTS-OF-WAY, THE AUTHORITY MAY REQUIRE A WIRELESS PROVIDER TO:

23 (1) CARRY, AT THE WIRELESS PROVIDER'S SOLE COST AND EXPENSE,
24 THE FOLLOWING TYPES OF THIRD-PARTY INSURANCE:

25 (I) PROPERTY INSURANCE FOR THE REPLACEMENT COST OF
26 ALL WIRELESS FACILITIES AND POLES AGAINST ALL RISKS;

27 (II) WORKERS' COMPENSATION INSURANCE, AS REQUIRED BY
28 LAW;

1 (III) COMMERCIAL GENERAL LIABILITY INSURANCE OF AT LEAST
2 **\$2,000,000 PER CLAIM, WITH RESPECT TO THE WIRELESS PROVIDER'S ACTIVITIES**
3 **IN, ON, OR AROUND THE AUTHORITY IMPROVEMENTS OR RIGHTS-OF-WAY,**
4 **INCLUDING COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE; AND**

5 (IV) ENVIRONMENTAL INSURANCE;

6 (2) INCLUDE THE AUTHORITY AS AN ADDITIONAL INSURED ON THE
7 COMMERCIAL GENERAL LIABILITY POLICY AND PROVIDE CERTIFICATION AND
8 DOCUMENTATION OF INCLUSION OF THE AUTHORITY IN A COMMERCIAL GENERAL
9 LIABILITY POLICY AS REASONABLY REQUIRED BY THE AUTHORITY; AND

10 (3) PROVIDE THAT AN AUTHORITY AND ITS EMPLOYEES, OFFICERS,
11 AND OFFICIALS ARE IMMUNE FROM LIABILITY FOR ANY CLAIM, INCLUDING A TORT
12 CLAIM, ARISING FROM THE INSTALLATION OR OPERATION OF WIRELESS FACILITIES
13 AND WIRELESS SUPPORT STRUCTURES.

14 **8-716.**

15 (A) AN AUTHORITY MAY ADOPT SURETY BONDING REQUIREMENTS FOR
16 WIRELESS PROVIDERS, WHICH MAY INCLUDE PROVISIONS TO TERMINATE THE
17 RIGHT TO OCCUPY A PUBLIC RIGHT-OF-WAY FOR FAILURE TO MEET THE SURETY
18 BONDING REQUIREMENTS.

19 (B) THE PURPOSE OF A SURETY BOND REQUIRED UNDER SUBSECTION (A)
20 OF THIS SECTION SHALL BE TO:

21 (1) PROVIDE FOR THE REMOVAL OF ABANDONED OR IMPROPERLY
22 MAINTAINED WIRELESS FACILITIES OR POLES, INCLUDING THOSE THAT THE
23 AUTHORITY DETERMINES NEED TO BE REMOVED TO PROTECT PUBLIC HEALTH,
24 SAFETY, OR WELFARE AND RESTORE THE RIGHT-OF-WAY; AND

25 (2) RECOUP RATES OR FEES THAT HAVE NOT BEEN PAID BY A
26 WIRELESS PROVIDER, AS LONG AS THE AUTHORITY HAS GIVEN REASONABLE NOTICE
27 TO THE WIRELESS PROVIDER AND THE OPPORTUNITY TO PAY THE RATES OR FEES
28 OUTSTANDING.

29 **8-717.**

30 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

1 **(2) "FUND" MEANS THE DIGITAL INCLUSION FUND.**

2 **(3) "SECRETARY" MEANS THE SECRETARY OF HOUSING AND**
3 **COMMUNITY DEVELOPMENT.**

4 **(B) THERE IS A DIGITAL INCLUSION FUND IN THE DEPARTMENT OF**
5 **HOUSING AND COMMUNITY DEVELOPMENT.**

6 **(C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO AUTHORITIES**
7 **FOR THE PURPOSE OF EXPANDING THE DEPLOYMENT OF WIRELESS FACILITIES AND**
8 **POLES IN GEOGRAPHICAL AREAS OF THE STATE THAT ARE UNDERSERVED BY**
9 **WIRELESS PROVIDERS.**

10 **(D) THE SECRETARY SHALL ADMINISTER THE FUND.**

11 **(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
12 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

13 **(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**
14 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

15 **(F) THE FUND CONSISTS OF:**

16 **(1) REVENUES FROM THE SURCHARGE ESTABLISHED UNDER**
17 **SUBSECTION (J) OF THIS SECTION;**

18 **(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND; AND**

19 **(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
20 **THE BENEFIT OF THE FUND.**

21 **(G) THE FUND MAY BE USED ONLY FOR PROVIDING FINANCIAL ASSISTANCE**
22 **IN THE FORM OF GRANTS AND LOANS TO AUTHORITIES TO FUND THE INSTALLATION**
23 **OF WIRELESS FACILITIES AND POLES IN UNDERSERVED AREAS OF THE STATE.**

24 **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**
25 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

26 **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**
27 **THE GENERAL FUND OF THE STATE.**

28 **(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**
29 **WITH THE STATE BUDGET.**

1 **(J) (1) THERE IS A SURCHARGE LEVIED AND COLLECTED FROM**
2 **WIRELESS PROVIDERS THAT INSTALL WIRELESS FACILITIES AND POLES UNDER THIS**
3 **SUBTITLE.**

4 **(2) THE AMOUNT OF THE SURCHARGE IS 1% OF THE GROSS REVENUE**
5 **REALIZED BY A WIRELESS PROVIDER FROM THE SALE OF WIRELESS SERVICES IN**
6 **THE STATE.**

7 **(3) ALL REVENUES FROM THE SURCHARGE SHALL BE DEPOSITED IN**
8 **THE FUND.**

9 **(4) THE COMPTROLLER:**

10 **(I) SHALL ADMINISTER THE SURCHARGE; AND**

11 **(II) MAY ADOPT REGULATIONS APPROPRIATE FOR THE**
12 **COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF THE SURCHARGE.**

13 **(5) EXCEPT TO THE EXTENT THEY ARE INCONSISTENT WITH THIS**
14 **SECTION, THE PROVISIONS OF TITLE 13 OF THE TAX – GENERAL ARTICLE**
15 **APPLICABLE TO THE SALES AND USE TAX SHALL GOVERN THE ADMINISTRATION,**
16 **COLLECTION, AND ENFORCEMENT OF THE SURCHARGE PROVIDED UNDER THIS**
17 **SUBSECTION.**

18 **(K) (1) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT**
19 **THIS SECTION.**

20 **(2) THE REGULATIONS SHALL INCLUDE:**

21 **(I) PROCEDURES FOR AUTHORITIES TO APPLY FOR FINANCIAL**
22 **ASSISTANCE FROM THE FUND; AND**

23 **(II) PRIORITIES FOR ALLOCATING, SELECTING, AND**
24 **DISTRIBUTING FINANCIAL ASSISTANCE FROM THE FUND TO AUTHORITIES IN AREAS**
25 **OF THE STATE UNDERSERVED BY WIRELESS FACILITIES AND WIRELESS SERVICES.**

26 **8-718.**

27 **(A) THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE AUTHORITY IS**
28 **LOCATED SHALL HAVE JURISDICTION OVER ANY DISPUTE ARISING UNDER THIS**
29 **SUBTITLE.**

1 **(B) THE CIRCUIT COURT SHALL ADJUDICATE A CASE ARISING FROM A**
2 **DISPUTE UNDER THIS SUBTITLE WITHIN 180 DAYS AFTER THE COMPLAINT OR**
3 **PETITION IS FILED.**

4 **(C) A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL**
5 **JUDGMENT IN ACCORDANCE WITH THE MARYLAND RULES.**

6 **8-719.**

7 **IF THERE IS AN INCONSISTENCY BETWEEN THIS SUBTITLE AND THE**
8 **PROVISIONS OF ANY LOCAL LAW OR AGREEMENT OF AN AUTHORITY IN EFFECT**
9 **BEFORE JANUARY 1, 2020, AND AS THE LOCAL LAW OR AGREEMENT MAY BE**
10 **AMENDED FROM TIME TO TIME, THE PROVISIONS OF THE LOCAL LAW OR**
11 **AGREEMENT SHALL PREVAIL OVER THIS SUBTITLE TO THE EXTENT OF THE**
12 **INCONSISTENCY.**

13 13-101.

14 (a) This section does not apply to a violation of the following provisions of this
15 article:

16 (1) Title 5, Subtitle 4;

17 (2) Title 7, Subtitle 1;

18 (3) Title 8, Subtitles [1 and] 1, 3, AND 7; and

19 (4) Title 9, Subtitle 3.

20 (b) A person may not fail, neglect, or refuse to comply with any provision of this
21 division or any effective and outstanding direction, ruling, order, rule, regulation, or
22 decision of the Commission.

23 (c) An individual who knowingly violates or knowingly aids or abets a public
24 service company in the violation of subsection (b) of this section or any provision of this
25 division:

26 (1) is guilty of a misdemeanor; and

27 (2) unless a different punishment is specifically provided by law, on
28 conviction is subject to a fine not exceeding \$1,000 for a first offense and not exceeding
29 \$5,000 for each additional or subsequent offense.

30 13-201.

31 (a) This section does not apply to a violation of the following provisions of this

1 article:

- 2 (1) Title 5, Subtitle 4;
- 3 (2) Title 7, Subtitle 1;
- 4 (3) § 7–213 as it applies to electric cooperatives;
- 5 (4) Title 8, Subtitles [1 and] 1, 3, AND 7;
- 6 (5) Title 9, Subtitle 3; and
- 7 (6) Title 8, Subtitle 4.

8 (b) (1) Except as provided in paragraph (2) of this subsection, the Commission
9 may impose a civil penalty not exceeding \$25,000 against a person who violates a provision
10 of this division, or an effective and outstanding direction, ruling, order, rule, or regulation
11 of the Commission.

12 (2) The civil penalty that the Commission may impose on a common carrier
13 for each violation may not exceed \$2,500.

14 (c) (1) A civil penalty may be imposed in addition to any other penalty
15 authorized by this division.

16 (2) Each violation is a separate offense.

17 (3) Each day or part of a day the violation continues is a separate offense.

18 (d) The Commission shall determine the amount of any civil penalty after
19 considering:

20 (1) the number of previous violations of any provision of this article;

21 (2) the gravity of the current violation;

22 (3) the good faith efforts of the violator in attempting to achieve compliance
23 after notification of the violation; and

24 (4) any other matter that the Commission considers appropriate and
25 relevant.

26 (e) (1) Except as provided in paragraphs (2) and (3) of this subsection, a civil
27 penalty collected under this section shall be paid into the General Fund of the State.

28 (2) A civil penalty assessed for a violation of a service quality and reliability
29 standard under § 7–213 of this article shall be paid into the Electric Reliability Remediation

1 Fund under § 7–213(j) of this article.

2 (3) A civil penalty assessed for a violation of § 7–505(b)(7), § 7–507, §
3 7–603, § 7–604, or § 7–606 of this article, or a rule, an order, or a regulation adopted under
4 any of those sections, shall be paid into the Retail Choice Customer Education and
5 Protection Fund under § 7–310 of this article.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 January 1, 2020.