

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 331
SENATE BILL 1140

AN ACT

AMENDING TITLE 9, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 13; AMENDING SECTION 41-1092.01, ARIZONA REVISED STATUTES; RELATING TO VIDEO AND CABLE SERVICE PROVIDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, Arizona Revised Statutes, is amended by adding
3 chapter 13, to read:

4 CHAPTER 13

5 VIDEO SERVICE

6 ARTICLE 1. GENERAL PROVISIONS

7 9-1401. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "AFFILIATE" MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, THROUGH
10 ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON
11 CONTROL WITH A VIDEO SERVICE PROVIDER.

12 2. "AGREEMENT" MEANS ANY AGREEMENT OR CONTRACT.

13 3. "BOUNDARIES OF A LOCAL GOVERNMENT" OR "BOUNDARIES" MEANS:

14 (a) FOR A CITY OR TOWN, ALL OF THE AREA WITHIN THE CORPORATE LIMITS
15 OF THE CITY OR TOWN.

16 (b) FOR A COUNTY, ALL OF THE AREA OF THE COUNTY THAT IS NOT WITHIN
17 THE CORPORATE LIMITS OF ANY CITY OR TOWN, INCLUDING UNINCORPORATED
18 TERRITORY THAT IS SURROUNDED ON ALL SIDES BY A COMBINATION OF ONE OR MORE
19 CITIES, TOWNS OR INDIAN RESERVATIONS.

20 4. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED IN 47 UNITED
21 STATES CODE SECTION 522.

22 5. "CABLE SERVICE" HAS THE SAME MEANING PRESCRIBED IN 47 UNITED
23 STATES CODE SECTION 522.

24 6. "CABLE SYSTEM" HAS THE SAME MEANING PRESCRIBED IN 47 UNITED
25 STATES CODE SECTION 522.

26 7. "COMMERCIAL MOBILE SERVICE PROVIDER" MEANS A PERSON THAT
27 PROVIDES COMMERCIAL MOBILE SERVICE AS DEFINED IN 47 UNITED STATES CODE
28 SECTION 332(d) OR COMMERCIAL MOBILE RADIO SERVICE AS DESCRIBED IN 47 CODE
29 OF FEDERAL REGULATIONS SECTION 20.9.

30 8. "DAY" MEANS A CALENDAR DAY, EXCEPT A SATURDAY OR SUNDAY OR A
31 HOLIDAY PRESCRIBED IN SECTION 1-301.

32 9. "GROSS REVENUE":

33 (a) MEANS ALL CASH, CREDITS, PROPERTY OF ANY KIND OR NATURE OR
34 OTHER CONSIDERATION THAT IS RECEIVED DIRECTLY OR INDIRECTLY BY A VIDEO
35 SERVICE PROVIDER, ITS AFFILIATES, OR ANY PERSON, FIRM OR CORPORATION IN
36 WHICH THE VIDEO SERVICE PROVIDER HAS A FINANCIAL INTEREST OR THAT HAS A
37 FINANCIAL INTEREST IN THE VIDEO SERVICE PROVIDER AND THAT IS DERIVED FROM
38 THE VIDEO SERVICE PROVIDER'S OPERATION OF ITS VIDEO SERVICE NETWORK TO
39 PROVIDE VIDEO SERVICE IN THE SERVICE AREA.

40 (b) INCLUDES ALL REVENUE FROM CHARGES FOR VIDEO SERVICE TO
41 SUBSCRIBERS AND ALL CHARGES FOR INSTALLATION, REMOVAL, CONNECTION OR
42 REINSTATEMENT OF EQUIPMENT NECESSARY FOR A SUBSCRIBER TO RECEIVE VIDEO
43 SERVICE AND ANY OTHER RECEIPTS FROM SUBSCRIBERS DERIVED FROM THE VIDEO
44 SERVICE PROVIDER'S OPERATION OF THE VIDEO SERVICE NETWORK TO PROVIDE VIDEO
45 SERVICE, INCLUDING RECEIPTS FROM FORFEITED DEPOSITS, SALE OR RENTAL OF

1 EQUIPMENT TO PROVIDE VIDEO SERVICE, LATE CHARGES, INTEREST AND SALE OF
2 PROGRAM GUIDES.

3 (c) DOES NOT INCLUDE:

4 (i) ANY REVENUE NOT RECEIVED, EVEN IF BILLED, SUCH AS BAD DEBT NET
5 OF ANY RECOVERIES OF BAD DEBT OR ANY REFUNDS, CREDITS, ALLOWANCES OR
6 DISCOUNTS TO SUBSCRIBERS TO THE EXTENT THAT THE REFUND, REBATE, CREDIT,
7 ALLOWANCE OR DISCOUNT IS ATTRIBUTED TO VIDEO SERVICE.

8 (ii) REVENUE FROM COMMERCIAL ADVERTISING ON THE VIDEO SERVICE
9 NETWORK, THE USE OR LEASE OF STUDIO FACILITIES OF THE VIDEO SERVICE
10 NETWORK, INTERNET ACCESS SERVICE, THE USE OR LEASE OF ITS FACILITIES
11 LOCATED IN THE HIGHWAYS, THE USE OR LEASE OF LEASED ACCESS CHANNELS OR
12 BANDWIDTH, THE USE OR LEASE OF TOWERS, THE PRODUCTION OF VIDEO PROGRAMMING
13 BY THE VIDEO SERVICE PROVIDER, THE SALE, EXCHANGE, USE OR CABLECAST OF ANY
14 PROGRAMMING BY THE VIDEO SERVICE PROVIDER IN THE SERVICE AREA, SALES TO
15 THE VIDEO SERVICE PROVIDER'S SUBSCRIBERS BY PROGRAMMERS OF HOME SHOPPING
16 SERVICES, REIMBURSEMENTS PAID BY PROGRAMMERS FOR LAUNCH FEES OR MARKETING
17 EXPENSES, LICENSE FEES, TAXES OR OTHER FEES OR CHARGES THAT THE VIDEO
18 SERVICE PROVIDER COLLECTS AND PAYS TO ANY GOVERNMENTAL AUTHORITY, ANY
19 INCREASE IN THE VALUE OF ANY STOCK, SECURITY OR ASSET, OR ANY DIVIDENDS OR
20 OTHER DISTRIBUTIONS MADE FROM ANY STOCK OR SECURITIES.

21 10. "HIGHWAY" MEANS ALL ROADS, STREETS AND ALLEYS AND OTHER
22 DEDICATED PUBLIC RIGHTS-OF-WAY THAT ARE OPERATED AND MAINTAINED BY A LOCAL
23 GOVERNMENT.

24 11. "HOLDER" MEANS A VIDEO SERVICE PROVIDER THAT HAS BEEN ISSUED A
25 UNIFORM VIDEO SERVICE LICENSE PURSUANT TO THIS CHAPTER.

26 12. "HOLDOVER CABLE OPERATOR" MEANS AN INCUMBENT CABLE OPERATOR
27 THAT ELECTS UNDER SECTIONS 9-1412 AND 9-1413 TO CONTINUE TO OPERATE WITHIN
28 ITS SERVICE AREA PURSUANT TO ITS LOCAL LICENSE.

29 13. "INCUMBENT CABLE OPERATOR" MEANS A CABLE OPERATOR OR OTHER
30 VIDEO SERVICE PROVIDER THAT ON DECEMBER 31, 2019 IS PROVIDING VIDEO
31 SERVICE IN THIS STATE PURSUANT TO A LOCAL LICENSE.

32 14. "INFORMATION SERVICE" HAS THE SAME MEANING PRESCRIBED IN 47
33 UNITED STATES CODE SECTION 153.

34 15. "INTERACTIVE COMPUTER SERVICE" HAS THE SAME MEANING PRESCRIBED
35 IN 47 UNITED STATES CODE SECTION 230(f).

36 16. "LICENSE" MEANS A FRANCHISE AS DEFINED IN 47 UNITED STATES CODE
37 SECTION 522.

38 17. "LICENSE FEE" MEANS A LICENSE FEE IMPOSED BY A LOCAL GOVERNMENT
39 ON A VIDEO SERVICE PROVIDER FOR USING THE HIGHWAYS TO PROVIDE AND FOR THE
40 PRIVILEGE OF PROVIDING VIDEO SERVICE.

41 18. "LOCAL GOVERNMENT" MEANS ANY CITY, INCLUDING A CHARTER CITY,
42 TOWN OR COUNTY.

43 19. "LOCAL LAW" MEANS ANY CHARTER, CODE, ORDINANCE, RESOLUTION,
44 REGULATION OR OTHER LAW OF A LOCAL GOVERNMENT.

1 20. "LOCAL LICENSE" MEANS ANY LICENSE, AGREEMENT, PERMIT OR SIMILAR
2 AUTHORIZATION THAT MEETS ALL OF THE FOLLOWING:

3 (a) ALLOWS A PERSON TO CONSTRUCT OR OPERATE A VIDEO SERVICE NETWORK
4 WITHIN THE BOUNDARIES OF A LOCAL GOVERNMENT.

5 (b) IS ISSUED, GRANTED, APPROVED, EXTENDED OR RENEWED BY THE LOCAL
6 GOVERNMENT BEFORE JANUARY 1, 2020 PURSUANT TO THE AUTHORITY OF ANY
7 FEDERAL, STATE OR LOCAL LAW IN EFFECT AT THE TIME OF THE ISSUANCE, GRANT,
8 APPROVAL, EXTENSION OR RENEWAL.

9 (c) IS EFFECTIVE UNDER FEDERAL, STATE OR LOCAL LAW ON DECEMBER 31,
10 2019 FOR THE PERSON TO CONTINUE TO CONSTRUCT OR OPERATE A VIDEO SERVICE
11 NETWORK WITHIN THE BOUNDARIES OF A LOCAL GOVERNMENT.

12 21. "MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR" HAS THE SAME
13 MEANING PRESCRIBED IN 47 UNITED STATES CODE SECTION 522.

14 22. "SERVICE AREA" MEANS THAT PART OF THE BOUNDARIES OF A LOCAL
15 GOVERNMENT WITHIN WHICH A VIDEO SERVICE PROVIDER IS AUTHORIZED TO PROVIDE
16 VIDEO SERVICE PURSUANT TO A UNIFORM VIDEO SERVICE LICENSE OR A LOCAL
17 LICENSE.

18 23. "SUBSCRIBER" MEANS ANY PERSON IN THIS STATE THAT PURCHASES
19 VIDEO SERVICE. SUBSCRIBER DOES NOT INCLUDE ANY PERSON THAT PURCHASES
20 VIDEO SERVICE FOR RESALE AND THAT, ON RESALE, IS REQUIRED TO PAY A LICENSE
21 FEE PURSUANT TO THIS CHAPTER OR THE TERMS OF A LOCAL LICENSE.

22 24. "TELECOMMUNICATIONS":

23 (a) MEANS THE TRANSMISSION, BETWEEN OR AMONG POINTS SPECIFIED BY
24 THE USER, OF INFORMATION OF THE USER'S CHOOSING, WITHOUT CHANGE IN THE
25 FORM OR CONTENT OF THE INFORMATION SENT AND RECEIVED, REGARDLESS OF THE
26 FACILITIES, EQUIPMENT OR TECHNOLOGY USED.

27 (b) DOES NOT INCLUDE COMMERCIAL MOBILE RADIO SERVICE, PAY PHONE
28 SERVICE, INTERSTATE SERVICE OR CABLE SERVICE.

29 25. "TELECOMMUNICATIONS PROVIDER" MEANS A PERSON THAT IS REQUIRED
30 TO OBTAIN FROM THE CORPORATION COMMISSION A CERTIFICATE OF PUBLIC
31 CONVENIENCE AND NECESSITY TO PROVIDE TELECOMMUNICATIONS SERVICE.

32 26. "TELECOMMUNICATIONS SERVICE" MEANS THE OFFERING OF
33 TELECOMMUNICATIONS FOR A FEE DIRECTLY TO THE PUBLIC, OR TO SUCH USERS AS
34 TO BE EFFECTIVELY AVAILABLE DIRECTLY TO THE PUBLIC, REGARDLESS OF THE
35 EQUIPMENT, FACILITIES OR TECHNOLOGY USED.

36 27. "UNIFORM VIDEO SERVICE LICENSE" MEANS A LICENSE THAT IS ISSUED
37 BY A LOCAL GOVERNMENT IN THE FORM OF A UNIFORM VIDEO SERVICE LICENSE
38 AGREEMENT AS ADOPTED PURSUANT TO SECTION 9-1411.

39 28. "VIDEO SERVICE":

40 (a) MEANS THE PROVISION OF MULTICHANNEL VIDEO PROGRAMMING GENERALLY
41 CONSIDERED COMPARABLE TO VIDEO PROGRAMMING DELIVERED BY A TELEVISION
42 BROADCAST STATION, VIDEO SERVICE OR OTHER DIGITAL TELEVISION SERVICE,
43 WHETHER PROVIDED AS PART OF A TIER, ON DEMAND OR ON A PER-CHANNEL BASIS,
44 WITHOUT REGARD TO THE TECHNOLOGY USED TO DELIVER THE VIDEO SERVICE,
45 INCLUDING INTERNET PROTOCOL TECHNOLOGY OR ANY SUCCESSOR TECHNOLOGY.

1 (b) INCLUDES CABLE SERVICE.

2 (c) DOES NOT INCLUDE ANY OF THE FOLLOWING:

3 (i) VIDEO PROGRAMMING PROVIDED SOLELY AS PART OF, AND THROUGH, A
4 SERVICE THAT ENABLES USERS TO ACCESS CONTENT, INFORMATION, E-MAIL,
5 MESSAGING OR OTHER SERVICES THAT ARE OFFERED VIA THE PUBLIC INTERNET.

6 (ii) DIRECT BROADCAST SATELLITE SERVICE.

7 (iii) WIRELESS MULTICHANNEL VIDEO PROGRAMMING THAT IS PROVIDED BY A
8 COMMERCIAL MOBILE SERVICE PROVIDER.

9 29. "VIDEO SERVICE NETWORK":

10 (a) MEANS A WIRELINE NETWORK, OR ANY COMPONENT OF A WIRELINE
11 NETWORK, THAT IS LOCATED IN THIS STATE, CONSTRUCTED IN WHOLE OR IN PART
12 IN, ON, UNDER OR OVER ANY HIGHWAY AND USED TO PROVIDE VIDEO SERVICE.

13 (b) INCLUDES A CABLE SYSTEM.

14 30. "VIDEO SERVICE PROVIDER":

15 (a) MEANS ANY PERSON THAT PROVIDES OR OFFERS TO PROVIDE VIDEO
16 SERVICE OVER A VIDEO SERVICE NETWORK TO SUBSCRIBERS IN THIS STATE.

17 (b) INCLUDES AN INCUMBENT CABLE OPERATOR THAT ELECTED PURSUANT TO
18 SECTIONS 9-1412 AND 9-1413 TO TERMINATE ITS LOCAL LICENSE AND A
19 MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR.

20 (c) DOES NOT INCLUDE A HOLDOVER CABLE OPERATOR.

21 9-1402. State preemption; uniform regulation and licensing

22 A. THE LICENSING OF VIDEO SERVICE PROVIDERS AND THE REGULATION AND
23 USE OF VIDEO SERVICE ARE MATTERS OF STATEWIDE CONCERN. EXCEPT AS PROVIDED
24 IN THIS CHAPTER, THE LICENSING OF VIDEO SERVICE PROVIDERS AND THE
25 REGULATION AND USE OF VIDEO SERVICE ARE NOT SUBJECT TO FURTHER REGULATION
26 BY A LOCAL GOVERNMENT. THE REGULATION OF VIDEO SERVICE PURSUANT TO THIS
27 CHAPTER, INCLUDING APPLICATION TO THE LOCAL LICENSES OF INCUMBENT CABLE
28 OPERATORS, IS REASONABLE AND NECESSARY TO PROMOTE ALL OF THE FOLLOWING:

29 1. PROVISION OF COMPETITIVE VIDEO, TELECOMMUNICATIONS AND
30 INFORMATION SERVICE THROUGHOUT THIS STATE.

31 2. MORE UNIFORM REGULATION OF COMPETITIVE VIDEO SERVICE THROUGHOUT
32 THIS STATE.

33 3. STREAMLINED LICENSING BY LOCAL GOVERNMENTS AND MORE UNIFORM
34 TERMS AND CONDITIONS FOR VIDEO SERVICE PROVIDERS THAT USE HIGHWAYS TO
35 PROVIDE VIDEO AND OTHER SERVICES OVER VIDEO SERVICE NETWORKS.

36 4. CONTINUED MANAGEMENT BY LOCAL GOVERNMENTS OF USE OF THEIR
37 HIGHWAYS WITH REASONABLE BURDENS ON CONSTRUCTION AND MAINTENANCE ACROSS
38 BOUNDARIES BETWEEN LOCAL GOVERNMENTS FOR VIDEO SERVICE PROVIDERS TO USE
39 HIGHWAYS TO PROVIDE VIDEO AND OTHER SERVICES OVER VIDEO SERVICE NETWORKS.

40 5. CONTINUED LEVYING OF LICENSE FEES BY LOCAL GOVERNMENTS ON
41 SUBSCRIBER SERVICE REVENUES DERIVED FROM OPERATING VIDEO SERVICE NETWORKS
42 TO PROVIDE VIDEO SERVICE.

43 6. SUPPORT FOR FEDERAL SUBSCRIBER SERVICE STANDARDS.

44 B. TO THE FULLEST EXTENT ALLOWED BY FEDERAL LAW, THIS CHAPTER
45 OCCUPIES THE ENTIRE FIELD OF LICENSING AND REGULATION OF VIDEO SERVICE.

1 C. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, FROM AND AFTER
2 DECEMBER 31, 2019 THIS CHAPTER PREEMPTS AND LIMITS THE ABILITY OF A LOCAL
3 GOVERNMENT TO REGULATE OR ENFORCE ALL OF THE FOLLOWING:

4 1. THE APPLICATION OF CHAPTER 5, ARTICLE 1.1 OF THIS TITLE TO VIDEO
5 SERVICE PROVIDERS.

6 2. ANY LOCAL LAW AND ANY AGREEMENT WITH A LOCAL GOVERNMENT THAT
7 DOES ANY OF THE FOLLOWING:

8 (a) REQUIRES A PERSON OTHER THAN A HOLDOVER CABLE OPERATOR TO
9 OBTAIN OR HOLD FROM A LOCAL GOVERNMENT ANY LICENSE, PERMIT OR SIMILAR
10 AUTHORIZATION THAT IS A PREREQUISITE TO PROVIDING VIDEO SERVICE OR TO
11 CONSTRUCTING, MAINTAINING OR USING THE HIGHWAYS TO OPERATE A VIDEO SERVICE
12 NETWORK IN THE HIGHWAYS WITHIN ITS BOUNDARIES.

13 (b) REGULATES THE PROVISION OF VIDEO SERVICE OR THE CONSTRUCTION OR
14 OPERATION OF A VIDEO SERVICE NETWORK IF THE LOCAL LAW DOES NOT CONFORM TO
15 THIS CHAPTER.

16 (c) IMPOSES ON A VIDEO SERVICE PROVIDER ANY REQUIREMENT THAT IS
17 RELATED TO INFRASTRUCTURE, FACILITIES OR DEPLOYMENT OF EQUIPMENT THAT DOES
18 NOT CONFORM TO THIS CHAPTER, INCLUDING OFFICE LOCATION, INSTITUTIONAL
19 NETWORK, BUILD-OUT, LINE EXTENSION, INVESTMENT OR OTHER OPERATIONAL
20 REQUIREMENTS THAT ARE NOT DIRECTLY RELATED TO THE LOCAL GOVERNMENT'S
21 MANAGEMENT OF THE HIGHWAYS.

22 (d) REQUIRES A VIDEO SERVICE PROVIDER TO OBTAIN A LICENSE OR OTHER
23 AUTHORIZATION FROM THE LOCAL GOVERNMENT TO PROVIDE TELECOMMUNICATIONS
24 SERVICE, INFORMATION SERVICE, INTERACTIVE COMPUTER SERVICE OR OTHER
25 SERVICE IF THE VIDEO SERVICE PROVIDER USES ITS VIDEO SERVICE NETWORK
26 WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT TO PROVIDE THE SERVICE.

27 (e) REQUIRES A VIDEO SERVICE PROVIDER TO PAY TO LOCATE IN DUCTS OR
28 CONDUITS OR ON POLES OWNED BY THE LOCAL GOVERNMENT IF THE LOCAL GOVERNMENT
29 REQUIRES INSTALLATION IN THE DUCTS OR CONDUITS OR ON THE POLES.

30 9-1403. Limited application

31 THIS CHAPTER DOES NOT:

32 1. PREVENT A TELECOMMUNICATIONS PROVIDER FROM EXERCISING ANY RIGHTS
33 OR AUTHORITY THAT THE TELECOMMUNICATIONS PROVIDER HAS AS A PUBLIC UTILITY
34 UNDER FEDERAL OR STATE LAW.

35 2. AFFECT ANY AUTHORITY OF A LOCAL GOVERNMENT, AN AGRICULTURAL
36 IMPROVEMENT DISTRICT, ANY SPECIAL TAXING DISTRICT OR ANY OTHER PERSON THAT
37 CONTROLS UTILITY POLES ON THE HIGHWAYS TO DENY, LIMIT, RESTRICT OR
38 DETERMINE THE RATES, TERMS AND CONDITIONS FOR THE USE OF OR ATTACHMENT BY
39 A VIDEO SERVICE PROVIDER TO UTILITY OR OTHER POLES OWNED BY THE LOCAL
40 GOVERNMENT OR OTHER PERSON. FOR THE PURPOSES OF THIS PARAGRAPH,
41 "AUTHORITY OF A LOCAL GOVERNMENT" INCLUDES POLICE POWERS.

42 3. VEST IN THE CORPORATION COMMISSION ANY AUTHORITY OR JURISDICTION
43 OVER VIDEO SERVICE, VIDEO SERVICE PROVIDERS OR VIDEO SERVICE NETWORKS OR
44 OVER THE RATES, TERMS AND CONDITIONS OF POLE ATTACHMENTS UNDER 47 UNITED
45 STATES CODE SECTION 224.

1 9. A REQUIREMENT THAT THE VIDEO SERVICE PROVIDER AGREES TO COMPLY
2 WITH ALL GENERALLY APPLICABLE, NONDISCRIMINATORY LOCAL LAWS, INCLUDING
3 HIGHWAY USE, MAPPING, INSURANCE, PERFORMANCE BONDS, SECURITY FUND,
4 INDEMNIFICATION OR SIMILAR REQUIREMENTS THAT APPLY TO THE USE AND
5 OCCUPATION OF ANY HIGHWAY AND THAT CONFORM TO THIS CHAPTER.

6 10. A REQUIREMENT THAT THE VIDEO SERVICE PROVIDER COMPLY WITH THE
7 PUBLIC, EDUCATION AND GOVERNMENT PROGRAMMING REQUIREMENTS OF THIS CHAPTER.

8 11. A REQUIREMENT THAT THE VIDEO SERVICE PROVIDER COMPLY WITH ALL
9 CUSTOMER SERVICE RULES OF THE FEDERAL COMMUNICATIONS COMMISSION UNDER 47
10 CODE OF FEDERAL REGULATIONS SECTION 76.309(c) APPLICABLE TO CABLE
11 OPERATORS.

12 12. A REQUIREMENT THAT THE VIDEO SERVICE PROVIDER COMPLY WITH THE
13 CONSUMER PRIVACY REQUIREMENTS OF 47 UNITED STATES CODE SECTION 551
14 APPLICABLE TO CABLE OPERATORS.

15 13. A GRANT OF AUTHORITY BY THE LOCAL GOVERNMENT TO PROVIDE VIDEO
16 SERVICE IN THE SERVICE AREA AS DESCRIBED UNDER PARAGRAPH 5 OF THIS
17 SUBSECTION.

18 14. A GRANT OF AUTHORITY BY THE LOCAL GOVERNMENT TO USE AND OCCUPY
19 THE HIGHWAYS IN THE DELIVERY OF THE VIDEO SERVICE, SUBJECT TO THE LAWS OF
20 THIS STATE AND THE POLICE POWERS OF THE LOCAL GOVERNMENT.

21 15. THE TERM OF THE UNIFORM VIDEO SERVICE LICENSE.

22 16. A REQUIREMENT THAT THE PARTIES TO THE AGREEMENT ARE SUBJECT TO
23 AND MUST COMPLY WITH THIS CHAPTER.

24 D. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, FROM AND AFTER
25 DECEMBER 31, 2019 A PERSON MAY NOT ACT AS A VIDEO SERVICE PROVIDER OR
26 CONSTRUCT OR OPERATE A VIDEO SERVICE NETWORK WITHIN THE BOUNDARIES OF A
27 LOCAL GOVERNMENT WITHOUT FIRST HAVING BEEN ISSUED AND CONTINUING TO HOLD A
28 UNIFORM VIDEO SERVICE LICENSE WITH A SERVICE AREA ENCOMPASSING THE
29 BOUNDARIES.

30 E. A LOCAL LICENSE SHALL REMAIN ENFORCEABLE IN ACCORDANCE WITH ITS
31 TERMS UNTIL TERMINATED UNDER SECTION 9-1412, SUBSECTION B.

32 9-1412. Incumbent cable operator; election on local license;
33 procedure to obtain uniform video service license
34 and terminate local license

35 A. FROM AND AFTER DECEMBER 31, 2019, AN INCUMBENT CABLE OPERATOR
36 MAY ELECT TO DO EITHER OF THE FOLLOWING:

37 1. CONTINUE TO OPERATE WITHIN A SERVICE AREA AS DEFINED IN THE
38 LOCAL LICENSE PURSUANT TO SECTION 9-1413.

39 2. TERMINATE THE INCUMBENT CABLE OPERATOR'S LOCAL LICENSE FOR A
40 SERVICE AREA BY APPLYING FOR AND OBTAINING A UNIFORM VIDEO SERVICE LICENSE
41 PURSUANT TO THIS ARTICLE.

42 B. ON OR BEFORE JULY 1, 2020, TO ELECT TO TERMINATE A LOCAL LICENSE
43 UNDER SUBSECTION A OF THIS SECTION IN THE SAME MANNER AS ANY OTHER VIDEO
44 SERVICE PROVIDER, AN INCUMBENT CABLE OPERATOR SHALL APPLY FOR A UNIFORM
45 VIDEO SERVICE LICENSE THAT INCLUDES ONLY THE SERVICE AREA THAT IS DEFINED

1 IN THE LOCAL LICENSE. IF AN INCUMBENT CABLE OPERATOR OBTAINS A UNIFORM
2 VIDEO SERVICE LICENSE FOR THE SERVICE AREA, BOTH OF THE FOLLOWING APPLY:

3 1. THE APPLICANT'S LOCAL LICENSE IS TERMINATED AS TO THE SERVICE
4 AREA BY OPERATION OF LAW FROM AND AFTER THE DATE THE LOCAL GOVERNMENT
5 ISSUES THE UNIFORM VIDEO SERVICE LICENSE.

6 2. THE INCUMBENT CABLE OPERATOR SHALL OPERATE WITHIN THE SERVICE
7 AREA DEFINED IN THE LOCAL LICENSE UNLESS THE INCUMBENT CABLE OPERATOR
8 ELECTS UNDER SECTION 9-1414, SUBSECTION C TO APPLY FOR A UNIFORM VIDEO
9 SERVICE LICENSE FOR A SERVICE AREA THAT CONSISTS OF THE BOUNDARIES OF THE
10 LOCAL GOVERNMENT.

11 9-1413. Incumbent cable operator; procedure to continue
12 operating under local license

13 A. IF AN INCUMBENT CABLE OPERATOR DOES NOT TIMELY ELECT TO
14 TERMINATE A LOCAL LICENSE FOR A SERVICE AREA PURSUANT TO SECTION 9-1412,
15 SUBSECTION B, THE PERSON SHALL CONTINUE TO OPERATE THE CABLE SYSTEM AS A
16 HOLDOVER CABLE OPERATOR WITHIN THE SERVICE AREA DEFINED IN THE LOCAL
17 LICENSE AND SHALL COMPLY WITH THE LOCAL LICENSE FOR AS LONG AS IT REMAINS
18 IN EFFECT FOR THE SERVICE AREA. THE LOCAL LICENSE IS NOT EFFECTIVE FOR
19 THE SERVICE AREA FROM AND AFTER THE DATE THE LOCAL LICENSE EXPIRES BY ITS
20 TERMS. THE LOCAL GOVERNMENT MAY NOT UNILATERALLY RENEW OR EXTEND THE TERM
21 OF THE LOCAL LICENSE FOR THE SERVICE AREA. THE LOCAL GOVERNMENT AND THE
22 HOLDOVER CABLE OPERATOR SHALL COMPLY WITH ALL OF THE FOLLOWING, WHICH
23 SHALL CONTINUE TO APPLY TO THE LOCAL LICENSE:

- 24 1. CHAPTER 5, ARTICLE 1.1 OF THIS TITLE.
- 25 2. SECTION 9-584.
- 26 3. CHAPTER 5, ARTICLE 8 OF THIS TITLE.
- 27 4. TITLE 11, CHAPTER 13, ARTICLE 1.

28 B. TO OPERATE WITHIN A SERVICE AREA FROM AND AFTER THE DATE THE
29 LOCAL LICENSE EXPIRES, THE HOLDOVER CABLE OPERATOR MUST APPLY FOR AND
30 OBTAIN A UNIFORM VIDEO SERVICE LICENSE IN THE SAME MANNER AS ANY OTHER
31 VIDEO SERVICE PROVIDER.

32 C. IF A HOLDOVER CABLE OPERATOR IS ISSUED A UNIFORM VIDEO SERVICE
33 LICENSE WITH A SERVICE AREA THAT INCLUDES THE SERVICE AREA DEFINED UNDER
34 THE LOCAL LICENSE WHILE OPERATING PURSUANT TO THE LOCAL LICENSE UNDER
35 SUBSECTION A OF THIS SECTION, THE UNIFORM VIDEO SERVICE LICENSE DOES NOT
36 BECOME EFFECTIVE UNTIL THE LOCAL LICENSE EXPIRES.

37 D. A HOLDOVER CABLE OPERATOR THAT ELECTS TO APPLY FOR A UNIFORM
38 VIDEO SERVICE LICENSE SHALL DO SO AT LEAST ONE MONTH BEFORE THE LOCAL
39 LICENSE EXPIRES.

40 9-1414. Uniform video service license; application; fees

41 A. TO OBTAIN A UNIFORM VIDEO SERVICE LICENSE, A PERSON SHALL FILE
42 WITH THE CLERK OF THE LOCAL GOVERNMENT AN APPLICATION AND AFFIDAVIT THAT
43 ARE SIGNED BY ONE OF THE PRINCIPAL EXECUTIVE OFFICERS OR GENERAL PARTNERS
44 OF THE APPLICANT AND THAT COMPLY WITH THIS SECTION.

1 B. THE APPLICATION AND AFFIDAVIT SHALL BE IN THE FORM REQUIRED BY
2 THE LOCAL GOVERNMENT AND SHALL BE REQUIRED TO CONTAIN ALL OF AND NOT MORE
3 THAN THE FOLLOWING:

4 1. EACH SERVICE AREA IN WHICH THE APPLICANT INTENDS TO PROVIDE
5 VIDEO SERVICE IN THE FORMAT AS DESCRIBED IN SECTION 9-1411, SUBSECTION C.
6 EXCEPT AS PROVIDED IN SECTION 9-1412, SUBSECTION B, PARAGRAPH 2, UNDER A
7 UNIFORM VIDEO SERVICE LICENSE THE BOUNDARIES OF THE LOCAL GOVERNMENT IS A
8 SINGLE SERVICE AREA AND THE SERVICE AREA CONSISTS OF ALL OF THE TERRITORY
9 WITHIN THE BOUNDARIES OF THAT LOCAL GOVERNMENT.

10 2. THE INFORMATION PRESCRIBED BY SECTION 9-1411, SUBSECTION C,
11 PARAGRAPHS 1 THROUGH 4. THE HOLDER SHALL NOTIFY THE LOCAL GOVERNMENT IN
12 WRITING OF CHANGES TO THIS INFORMATION WITHIN THIRTY DAYS AFTER THE CHANGE
13 OCCURS.

14 3. THE TERM OF THE UNIFORM VIDEO SERVICE LICENSE, WHICH MAY NOT
15 EXCEED TEN YEARS.

16 4. AN AGREEMENT TO PAY ALL LAWFUL FEES AND CHARGES IMPOSED BY THE
17 LOCAL GOVERNMENT.

18 C. AN INCUMBENT CABLE OPERATOR DESCRIBED IN SECTION 9-1412,
19 SUBSECTION B, PARAGRAPH 2 MAY ELECT TO APPLY FOR A UNIFORM VIDEO SERVICE
20 LICENSE FOR A SERVICE AREA THAT CONSISTS OF THE BOUNDARIES OF A LOCAL
21 GOVERNMENT.

22 D. IF THE LOCAL GOVERNMENT DETERMINES THAT THE APPLICATION AND
23 AFFIDAVIT ARE INCOMPLETE OR OTHERWISE DEFICIENT FOR FAILURE TO COMPLY WITH
24 THIS SECTION, THE LOCAL GOVERNMENT SHALL PROVIDE WRITTEN NOTICE TO THE
25 APPLICANT NOT LATER THAN FIFTEEN DAYS AFTER THE DATE OF FILING OF THE
26 APPLICATION AND AFFIDAVIT. THE WRITTEN NOTICE SHALL DO BOTH OF THE
27 FOLLOWING:

28 1. EXPLAIN THE INCOMPLETENESS OR DEFICIENCY IN DETAIL.

29 2. SPECIFY THE INFORMATION OR OTHER ITEMS THAT ARE NECESSARY UNDER
30 THIS SECTION FOR PROPER COMPLETION OF THE APPLICATION AND AFFIDAVIT.

31 E. THE LOCAL GOVERNMENT MAY NOT DO ANY OF THE FOLLOWING:

32 1. CHARGE A FEE FOR FILING OR PROCESSING AN APPLICATION, AFFIDAVIT,
33 NOTICE OR OTHER DOCUMENT UNDER THIS CHAPTER.

34 2. VOTE ON OR TAKE OTHER OFFICIAL ACTION REGARDING THE APPLICATION,
35 AFFIDAVIT, NOTICE OR OTHER DOCUMENT.

36 3. REQUIRE THE APPLICANT TO OBTAIN THE APPROVAL OF THE LOCAL
37 GOVERNMENT REGARDING THE APPLICATION, AFFIDAVIT, NOTICE OR OTHER DOCUMENT.

38 4. REQUIRE THE APPLICANT TO ENTER INTO AN AGREEMENT AS DESCRIBED IN
39 SECTION 9-1442, SUBSECTION I.

40 9-1415. Authority granted by uniform video service license;
41 conditions and limitations prohibited; providing
42 video service

43 A. NOT LATER THAN THIRTY DAYS AFTER THE DATE AN APPLICANT FILES A
44 COMPLETED APPLICATION AND AFFIDAVIT PURSUANT TO SECTION 9-1414, THE LOCAL
45 GOVERNMENT SHALL ISSUE A UNIFORM VIDEO SERVICE LICENSE TO THE APPLICANT IN

1 THE FORM PRESCRIBED BY SECTION 9-1411. IF THE LOCAL GOVERNMENT DOES NOT
2 NOTIFY THE APPLICANT ABOUT THE COMPLETENESS OF THE UNIFORM VIDEO SERVICE
3 LICENSE AGREEMENT WITHIN THE TIME PERIOD PRESCRIBED BY SECTION 9-1414,
4 SUBSECTION D OR ISSUE THE AGREEMENT WITHIN THE TIME PERIOD REQUIRED UNDER
5 THIS SUBSECTION, THE AGREEMENT SHALL BE CONSIDERED COMPLETE AND ISSUED TO
6 THE APPLICANT IN THE FORM SUBMITTED.

7 B. THE UNIFORM VIDEO SERVICE LICENSE ISSUED TO AN APPLICANT,
8 INCLUDING AN INCUMBENT CABLE OPERATOR, BY A LOCAL GOVERNMENT IS A
9 NONEXCLUSIVE LICENSE GRANTING TO THE HOLDER OF THE UNIFORM VIDEO SERVICE
10 LICENSE THE AUTHORITY FOR THE TERM REQUESTED IN THE APPLICATION TO DO ALL
11 OF THE FOLLOWING:

12 1. PROVIDE VIDEO SERVICE IN ALL SERVICE AREAS DESIGNATED IN THE
13 APPLICATION AND AFFIDAVIT FILED WITH THE LOCAL GOVERNMENT.

14 2. CONSTRUCT AND OPERATE A VIDEO SERVICE NETWORK IN THE HIGHWAYS IN
15 EACH SERVICE AREA IN COMPLIANCE WITH THIS CHAPTER AND ALL LOCAL LAWS THAT
16 ARE NOT IN CONFLICT OR OTHERWISE DO NOT CONFORM TO THIS CHAPTER OR THE
17 PURPOSES AND OBJECTIVES OF THIS CHAPTER.

18 3. OPERATE AND MAINTAIN FACILITIES INSTALLED IN THE HIGHWAYS IN THE
19 SERVICE AREA UNDER A LOCAL LICENSE PURSUANT TO ALL OF THE FOLLOWING:

20 (a) SECTION 9-506, SUBSECTIONS I AND J.

21 (b) SECTION 9-584.

22 (c) CHAPTER 5, ARTICLE 8 OF THIS TITLE AND TITLE 11, CHAPTER 13,
23 ARTICLE 1.

24 C. A LOCAL GOVERNMENT MAY NOT CONDITION OR LIMIT A UNIFORM VIDEO
25 SERVICE LICENSE BY IMPOSING ANY OBLIGATION OR REQUIREMENT THAT IS NOT
26 AUTHORIZED BY THIS CHAPTER, INCLUDING ANY OF THE FOLLOWING:

27 1. ANY OFFICE LOCATION, INSTITUTIONAL NETWORK OR OTHER BUILD-OUT,
28 LINE EXTENSION, INVESTMENT OR OTHER REQUIREMENTS RELATING TO THE OVERALL
29 SCOPE, EXTENT AND TIMING OF INFRASTRUCTURE, FACILITIES OR DEPLOYMENT OF
30 EQUIPMENT.

31 2. ANY REQUIREMENTS TO PAY TO ANY PERSON ANY APPLICATION, DOCUMENT,
32 LICENSE, SERVICE OR OTHER FEE, TAX, CHARGE OR ASSESSMENT THAT IS NOT
33 AUTHORIZED BY THIS CHAPTER.

34 D. A HOLDER OF A UNIFORM VIDEO SERVICE LICENSE SHALL PROVIDE VIDEO
35 SERVICE IN ACCORDANCE WITH THE CERTIFICATIONS MADE BY THE HOLDER IN EACH
36 APPLICATION AND AFFIDAVIT THAT THE HOLDER FILES WITH A LOCAL GOVERNMENT
37 PURSUANT TO THIS ARTICLE.

38 9-1416. Amendment of uniform video service license to add
39 service area

40 A. TO ADD ONE OR MORE NEW SERVICE AREAS TO A UNIFORM VIDEO SERVICE
41 LICENSE, THE HOLDER SHALL FILE WITH THE CLERK OF THE LOCAL GOVERNMENT AN
42 APPLICATION FOR AN AMENDMENT TO THE UNIFORM VIDEO SERVICE LICENSE TO ADD
43 EACH NEW SERVICE AREA.

1 B. THE APPLICATION IS SUBJECT TO THE SAME PROCEDURES, REQUIREMENTS,
2 LIMITATIONS AND TIME PERIODS AS AN APPLICATION FOR ISSUANCE OF A UNIFORM
3 VIDEO SERVICE LICENSE PURSUANT TO SECTIONS 9-1414 AND 9-1415.

4 9-1417. Termination of service

5 A. TO TERMINATE THE AUTHORITY TO PROVIDE VIDEO SERVICE TO AN
6 EXISTING SERVICE AREA AUTHORIZED UNDER THE UNIFORM VIDEO SERVICE LICENSE,
7 THE HOLDER OF THE UNIFORM VIDEO SERVICE LICENSE SHALL FILE WITH THE CLERK
8 OF THE LOCAL GOVERNMENT WRITTEN NOTICE OF THE TERMINATION.

9 B. THE HOLDER MAY TERMINATE SERVICE ON AND AFTER THE DATE THAT THE
10 HOLDER FILES THE WRITTEN NOTICE WITH THE CLERK OF THE LOCAL GOVERNMENT.

11 C. THE HOLDER SHALL:

12 1. COMPLY WITH APPLICABLE FEDERAL LAWS, INCLUDING RULES AND
13 REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION.

14 2. GIVE ALL AFFECTED SUBSCRIBERS AND LOCAL GOVERNMENTS NOTICE AT
15 LEAST NINETY DAYS BEFORE TERMINATION OF SERVICE IN ALL OF A SERVICE AREA
16 THAT CONSISTS OF THE BOUNDARIES OF THE LOCAL GOVERNMENT.

17 9-1418. Boundary change

18 EACH LOCAL GOVERNMENT WHOSE BOUNDARIES CHANGE SHALL NOTIFY IN A
19 TIMELY MANNER EACH VIDEO SERVICE PROVIDER THAT OPERATES IN THE BOUNDARIES.

20 9-1419. Transfer of uniform video service license

21 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR OTHERWISE
22 REQUIRED BY FEDERAL LAW, INCLUDING RULES AND REGULATIONS OF THE FEDERAL
23 COMMUNICATIONS COMMISSION, A UNIFORM VIDEO SERVICE LICENSE IS FULLY
24 TRANSFERABLE TO ANY PERSON WHETHER THE TRANSFER ARISES THROUGH MERGER,
25 SALE, ASSIGNMENT, RESTRUCTURING, CHANGE OF CONTROL OR OTHER TYPE OF
26 TRANSACTION. A TRANSFER DOES NOT INCLUDE AN ASSIGNMENT OF A UNIFORM VIDEO
27 SERVICE LICENSE FOR THE PURPOSE OF SECURING INDEBTEDNESS. A TRANSFER MAY
28 INCLUDE LESS THAN ALL SERVICE AREAS ASSOCIATED WITH A UNIFORM VIDEO
29 SERVICE LICENSE.

30 B. THE HOLDER SHALL FILE WITH THE CLERK OF THE LOCAL GOVERNMENT
31 WRITTEN NOTICE OF THE TRANSFER OF THE UNIFORM VIDEO SERVICE LICENSE. ON
32 THE FILING OF NOTICE UNDER THIS SUBSECTION THE TRANSFEREE BECOMES THE
33 HOLDER.

34 9-1420. Extension

35 A. TO EXTEND THE TERM OF A UNIFORM VIDEO SERVICE LICENSE, THE
36 HOLDER OF THE UNIFORM VIDEO SERVICE LICENSE SHALL FILE WITH THE CLERK OF
37 THE LOCAL GOVERNMENT AT LEAST ONE MONTH BEFORE THE END OF THE TERM OF THE
38 UNIFORM VIDEO SERVICE LICENSE A NOTICE TO EXTEND THE TERM FOR A SPECIFIED
39 PERIOD NOT TO EXCEED TEN YEARS.

40 B. EFFECTIVE ON THE DATE THE HOLDER FILES THE WRITTEN NOTICE WITH
41 THE CLERK OF THE LOCAL GOVERNMENT, THE TERM IS EXTENDED FOR THE SPECIFIED
42 PERIOD FROM AND AFTER THE DATE OF THE END OF THE THEN-CURRENT TERM.

43 C. TRANSFERRING, AMENDING OR MODIFYING A UNIFORM VIDEO SERVICE
44 LICENSE UNDER OTHER SECTIONS OF THIS ARTICLE DOES NOT EXTEND THE TERM OF
45 THE UNIFORM VIDEO SERVICE LICENSE.

1 9-1421. Subscriber complaints

2 A. A SUBSCRIBER MAY SUBMIT COMPLAINTS ABOUT VIDEO SERVICE TO ANY OF
3 THE FOLLOWING:

- 4 1. THE LOCAL GOVERNMENT WHERE THE SUBSCRIBER RESIDES.
- 5 2. THE ATTORNEY GENERAL.
- 6 3. THE FEDERAL COMMUNICATIONS COMMISSION.
- 7 4. OTHER AUTHORITIES AS PROVIDED BY LAW.

8 B. A LOCAL GOVERNMENT MAY CHOOSE TO MONITOR AND ASSIST SUBSCRIBERS
9 WITH THE SUBSCRIBER SERVICE STANDARDS PURSUANT TO 47 CODE OF FEDERAL
10 REGULATIONS SECTION 76.309(c) OR TO BE IDENTIFIED ON BILLS TO SUBSCRIBERS
11 AS THE LOCAL FRANCHISE AUTHORITY FOR A SERVICE AREA CONSISTENT WITH RULES
12 OF THE FEDERAL COMMUNICATIONS COMMISSION.

13 ARTICLE 3. DUTIES OF VIDEO SERVICE PROVIDERS

14 9-1431. Video service; revocation for nonuse

15 A. NOT LATER THAN TWENTY-FOUR MONTHS AFTER THE DATE THAT A LOCAL
16 GOVERNMENT ISSUES A UNIFORM VIDEO SERVICE LICENSE PURSUANT TO SECTIONS
17 9-1414 AND 9-1415 OR AN AMENDED UNIFORM VIDEO SERVICE LICENSE PURSUANT TO
18 SECTION 9-1416, THE HOLDER OF THE UNIFORM VIDEO SERVICE LICENSE SHALL
19 OFFER AND PROVIDE VIDEO SERVICE TO AT LEAST ONE SUBSCRIBER WITHIN EACH
20 SERVICE AREA AUTHORIZED BY THE UNIFORM VIDEO SERVICE LICENSE OR AMENDED
21 UNIFORM VIDEO SERVICE LICENSE UNLESS THE HOLDER CANNOT MEET THE
22 REQUIREMENT FOR REASONS BEYOND THE HOLDER'S CONTROL.

23 B. IF A HOLDER FAILS TO COMPLY WITH SUBSECTION A OF THIS SECTION, A
24 LOCAL GOVERNMENT MAY REVOKE THE HOLDER'S UNIFORM VIDEO SERVICE LICENSE FOR
25 AFFECTED SERVICE AREAS.

26 9-1432. Reports; confidentiality; definition

27 A. A VIDEO SERVICE PROVIDER THAT IS NOT AN INCUMBENT CABLE OPERATOR
28 AND THAT HOLDS A UNIFORM VIDEO SERVICE LICENSE WITH A SERVICE AREA WITHIN
29 THE BOUNDARIES OF A LOCAL GOVERNMENT SHALL PREPARE AND SUBMIT TO THE LOCAL
30 GOVERNMENT A SEMIANNUAL REPORT THAT IDENTIFIES THE LOCATIONS WITHIN THE
31 BOUNDARIES THAT ARE ABLE TO RECEIVE VIDEO SERVICE FROM THE VIDEO SERVICE
32 PROVIDER. THIS REPORTING REQUIREMENT APPLIES UNTIL THE VIDEO SERVICE
33 PROVIDER HAS CONSTRUCTED ALL OF THE FACILITIES THE VIDEO SERVICE PROVIDER
34 INTENDS TO CONSTRUCT WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT.

35 B. THE VIDEO SERVICE PROVIDER SHALL FILE THE REPORT WITH THE LOCAL
36 GOVERNMENT NOT LATER THAN TWENTY DAYS AFTER THE LAST DAY OF THE SECOND AND
37 FOURTH CALENDAR QUARTERS OF EACH YEAR.

38 C. INFORMATION CONTAINED IN A REPORT THAT IS SUBMITTED TO A LOCAL
39 GOVERNMENT PURSUANT TO THIS SECTION:

- 40 1. IS CONFIDENTIAL PROPRIETARY INFORMATION OF THE VIDEO SERVICE
41 PROVIDER.
- 42 2. IS NOT A PUBLIC RECORD.
- 43 3. MUST BE MANAGED SO THAT ANY CRITICAL INFRASTRUCTURE INFORMATION
44 CONTAINED IN THE REPORT IS PROTECTED AS PROVIDED BY LAW.

1 4. MAY NOT BE DISCLOSED TO ANY PERSON WHO IS NOT AN OFFICER OR
2 EMPLOYEE OF THE LOCAL GOVERNMENT UNLESS THE VIDEO SERVICE PROVIDER HAS
3 CONSENTED IN WRITING TO THE DISCLOSURE.

4 D. FOR THE PURPOSES OF THIS SECTION, "CRITICAL INFRASTRUCTURE
5 INFORMATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1801.

6 9-1433. Nondiscriminatory manner; compliance with standards
7 and federal law

8 A. A VIDEO SERVICE PROVIDER SHALL ACTIVATE AND OFFER VIDEO SERVICE
9 IN A NONDISCRIMINATORY MANNER WITHIN EACH SERVICE AREA AND MAY NOT DENY
10 ACCESS TO VIDEO SERVICE TO ANY GROUP OF POTENTIAL RESIDENTIAL SUBSCRIBERS
11 WITHIN A PARTICULAR PART OF A SERVICE AREA BECAUSE OF THE INCOME PROFILE
12 OF THE PERSONS WHO RESIDE IN THAT PART OF THE SERVICE AREA.

13 B. IN PROVIDING VIDEO SERVICE, A VIDEO SERVICE PROVIDER SHALL
14 COMPLY WITH ALL OF THE FOLLOWING:

15 1. 47 UNITED STATES CODE SECTION 551.

16 2. ALL ENGINEERING AND SAFETY CODES APPLICABLE TO THE VIDEO SERVICE
17 PROVIDER'S CONSTRUCTION PRACTICES AND INSTALLATION OF EQUIPMENT.

18 3. ANY TECHNICAL STANDARDS GOVERNING THE DESIGN, CONSTRUCTION AND
19 OPERATION OF A VIDEO SERVICE NETWORK REQUIRED BY FEDERAL LAW.

20 4. 47 CODE OF FEDERAL REGULATIONS PART 11, AS ADOPTED AND AS MAY BE
21 AMENDED BY THE FEDERAL COMMUNICATIONS COMMISSION, TO THE EXTENT THOSE
22 PROVISIONS REQUIRE A VIDEO SERVICE PROVIDER TO PARTICIPATE IN THE
23 EMERGENCY ALERT SYSTEM.

24 5. 47 CODE OF FEDERAL REGULATIONS SECTIONS 76.309, 76.1601,
25 76.1602, 76.1603, 76.1604, 76.1618, 76.1619, 76.1620, 76.1621 AND 76.1622,
26 AS ADOPTED AND AS MAY BE AMENDED BY THE FEDERAL COMMUNICATIONS COMMISSION,
27 ON STANDARDS GOVERNING THE QUALITY OF VIDEO SERVICE AND SUBSCRIBER
28 SERVICE. A VIDEO SERVICE PROVIDER MAY NOT BE REQUIRED TO COMPLY WITH ANY
29 SUBSCRIBER SERVICE STANDARDS THAT ARE MORE BURDENSOME THAN THOSE SET FORTH
30 IN THIS PARAGRAPH.

31 ARTICLE 4. LOCAL GOVERNMENTS

32 9-1441. Management of highways; local governments; permits or
33 licenses

34 A. IN MANAGING A HIGHWAY UNDER LOCAL LAWS AS PRESCRIBED IN SECTION
35 9-1411, SUBSECTION C, PARAGRAPH 9, A LOCAL GOVERNMENT MAY MANAGE THE USE
36 OF THE HIGHWAY, INCLUDING ALL OF THE FOLLOWING:

37 1. REQUIRING A VIDEO SERVICE PROVIDER THAT IS CONSTRUCTING,
38 INSTALLING, WORKING WITHIN, MAINTAINING OR REPAIRING FACILITIES IN, ON,
39 UNDER OR OVER ANY HIGHWAY TO OBTAIN A CONSTRUCTION, ENCROACHMENT OR
40 OCCUPANCY PERMIT FOR THE WORK.

41 2. INSPECTING THE CONSTRUCTION, INSTALLATION, MAINTENANCE OR REPAIR
42 WORK PERFORMED ON SUCH FACILITIES.

43 3. LIMITING THE INSTALLATION OF NEW AERIAL FACILITIES.

1 B. IF A VIDEO SERVICE PROVIDER REQUESTS A PERMIT OR INSPECTION, THE
2 LOCAL GOVERNMENT SHALL GRANT OR DENY THE REQUEST WITHIN THE TIME FRAME
3 THAT THE LOCAL GOVERNMENT HAS IN PLACE UNDER SECTION 9-835 OR 11-1605.

4 C. IF EMERGENCY RESPONSE WORK OR REPAIR BECOMES NECESSARY IN, ON,
5 UNDER OR OVER ANY HIGHWAY, A VIDEO SERVICE PROVIDER MAY BEGIN THAT WORK OR
6 REPAIR WITHOUT PRIOR APPROVAL FROM A LOCAL GOVERNMENT IF THE VIDEO SERVICE
7 PROVIDER NOTIFIES THE LOCAL GOVERNMENT AS PROMPTLY AS REASONABLY POSSIBLE
8 AFTER LEARNING THAT THE WORK OR REPAIR IS NECESSARY.

9 9-1442. Fees and charges; emergency alert; damage;
10 undergrounding; wireless facilities; definition

11 A. EXCEPT THE LICENSE FEE ON GROSS REVENUE AUTHORIZED BY SECTION
12 9-1443 AND TRANSACTION PRIVILEGE TAXES AS PROVIDED IN SUBSECTION B OF THIS
13 SECTION, A LOCAL GOVERNMENT MAY NOT LEVY A TAX, RENT, FEE OR CHARGE,
14 HOWEVER DENOMINATED, ON A VIDEO SERVICE PROVIDER FOR THE USE OF THE
15 HIGHWAYS TO PROVIDE VIDEO SERVICE OR LEVY A TAX, FEE OR CHARGE ON THE
16 PRIVILEGE OF ENGAGING IN THE BUSINESS OF PROVIDING VIDEO SERVICE IN THE
17 SERVICE AREA. TAXES, RENTS, FEES AND CHARGES INCLUDE ALL OF THE
18 FOLLOWING:

19 1. ACCESS CHANNEL SUPPORT EXCEPT FOR IN-KIND SERVICES, GOODS OR
20 PAYMENTS AS PROVIDED IN SUBSECTION C OF THIS SECTION.

21 2. RENTAL, APPLICATION, CONSTRUCTION, PERMIT, INSPECTION,
22 INCONVENIENCE AND OTHER FEES AND CHARGES RELATED TO A VIDEO SERVICE
23 PROVIDER'S USE OF THE HIGHWAYS, INCLUDING THE USE AUTHORIZED BY SUBSECTION
24 D OF THIS SECTION EXCEPT THAT A LOCAL GOVERNMENT MAY IMPOSE ON A VIDEO
25 SERVICE PROVIDER SOME OR ALL OF THE FEES AND CHARGES DESCRIBED IN THIS
26 PARAGRAPH. A VIDEO SERVICE PROVIDER SHALL OFFSET THE FEES AND CHARGES
27 IMPOSED PURSUANT TO THIS PARAGRAPH AGAINST THE NEXT LICENSE FEE PAYMENT
28 MADE PURSUANT TO SECTION 9-1443.

29 B. ANY TRANSACTION PRIVILEGE TAXES OTHERWISE AUTHORIZED BY LOCAL
30 LAW TO BE LEVIED ON THE BUSINESS OF PROVIDING VIDEO SERVICE OR IN RELATION
31 TO USE OF THE HIGHWAYS TO PROVIDE VIDEO SERVICE MAY BE LEVIED ON A VIDEO
32 SERVICE PROVIDER IF THE TAXES ARE LEVIED ONLY ON GROSS REVENUE AND THE
33 RATE OF THE TAXES IS SUBJECT TO THIS SUBSECTION. THIS SUBSECTION DOES NOT
34 AUTHORIZE THE IMPOSITION OF TRANSACTION PRIVILEGE TAXES ON INTERSTATE
35 TELECOMMUNICATIONS SERVICE. THE LICENSE FEE AND ANY TRANSACTION PRIVILEGE
36 TAXES LEVIED ON GROSS REVENUE CONSTITUTE A FRANCHISE FEE WITHIN THE
37 MEANING OF THE TERM IN 47 UNITED STATES CODE SECTION 542(g). THE TOTAL OF
38 THE RATES OF THE LICENSE FEE AND OF ANY TRANSACTION PRIVILEGE TAXES ON
39 GROSS REVENUE LEVIED OR ASSESSED BY A LOCAL GOVERNMENT FOR THE PRIVILEGE
40 OF PROVIDING VIDEO SERVICE AND RELATED USE OF THE HIGHWAYS TO PROVIDE
41 VIDEO SERVICE MAY NOT EXCEED A RATE OF FIVE PERCENT.

42 C. SUBSECTION A OF THIS SECTION DOES NOT PROHIBIT A LOCAL
43 GOVERNMENT FROM LEVYING FEES AND CHARGES ON A VIDEO SERVICE PROVIDER OR
44 ITS AFFILIATES PURSUANT TO SECTION 9-584 OR PURSUANT TO CHAPTER 5, ARTICLE

1 8 OF THIS TITLE OR TITLE 11, CHAPTER 13, ARTICLE 1 WITHOUT AN OFFSET
2 AGAINST LICENSE FEES.

3 D. A LOCAL GOVERNMENT MAY NOT REQUIRE A VIDEO SERVICE PROVIDER TO
4 PROVIDE IN-KIND GOODS OR SERVICES, MAKE IN-KIND PAYMENTS, ASSESSMENTS OR
5 OBLIGATIONS OR PAY A FEE IN ADDITION TO THE MONETARY LICENSE FEE LEVIED OR
6 ASSESSED AS PROVIDED IN SECTION 9-1443, EXCEPT FOR ANY OF THE FOLLOWING:

7 1. A LOCAL LAW MAY IMPOSE AND ENFORCE OBLIGATIONS EQUALLY AND
8 UNIFORMLY ON ALL VIDEO SERVICE PROVIDERS THAT ARE OPERATING WITHIN THE
9 BOUNDARIES OF A LOCAL GOVERNMENT AND ON ALL HOLDOVER CABLE OPERATORS THAT
10 HOLD A LOCAL LICENSE THAT REMAINS IN EFFECT UNDER SECTION 9-1414,
11 SUBSECTION A. UNDER THE LOCAL LAW, A LOCAL GOVERNMENT:

12 (a) MAY REQUIRE ALL VIDEO SERVICE PROVIDERS TO PROVIDE CHANNEL
13 CAPACITY FOR THE VIDEO SERVICE PROVIDER TO TRANSMIT PROGRAMMING OVER WHICH
14 THE VIDEO SERVICE PROVIDER EXERCISES NO EDITORIAL CONTROL EXCEPT AS
15 AUTHORIZED BY 47 UNITED STATES CODE SECTION 531(e). THE CHANNEL CAPACITY
16 SHALL BE LIMITED TO ONE OF THE FOLLOWING:

17 (i) NOT MORE THAN TWO CHANNELS OF PUBLIC, EDUCATIONAL OR
18 GOVERNMENTAL ACCESS PROGRAMMING IN THE BASIC SERVICE TIER OF THE VIDEO
19 SERVICE NETWORK AND NOT MORE THAN TWO CHANNELS OF NONCOMMERCIAL
20 GOVERNMENTAL PROGRAMMING, AT LEAST ONE OF WHICH MAY BE PROGRAMMED BY THE
21 FEDERAL GOVERNMENT, IN THE DIGITAL PROGRAMMING TIER OF THE VIDEO SERVICE
22 NETWORK.

23 (ii) NOT MORE THAN TWO LINES OF ACCESS PROGRAMMING WITH EACH LINE
24 OF PROGRAMMING CARRIED ON UP TO TWO STANDARD DEFINITION CHANNELS AND TWO
25 SWITCHED DIGITAL HIGH-DEFINITION CHANNELS.

26 (b) SHALL SPECIFY THE PROGRAMMING AND THE VIDEO SERVICE PROVIDER
27 MAY REQUIRE THAT THE CHANNELS REGULARLY DISPLAY AN UNOBTRUSIVE LOGO OR
28 OTHER SUITABLE IDENTIFIER OF THE VIDEO SERVICE PROVIDER, IF THE LOCAL
29 GOVERNMENT REQUIRES CHANNEL CAPACITY PURSUANT TO SUBDIVISION (a) OF THIS
30 PARAGRAPH.

31 (c) MAY REQUIRE ALL VIDEO SERVICE PROVIDERS TO INCUR COSTS AND
32 EXPENSES TO PROVIDE, MAINTAIN AND OPERATE FACILITIES AND EQUIPMENT OF THE
33 VIDEO SERVICE NETWORK, INCLUDING FACILITIES AND EQUIPMENT FOR SIGNAL
34 CARRIAGE, PROCESSING, REFORMATTING AND INTERCONNECTION FOR ALL OF THE
35 FOLLOWING:

36 (i) TO CONNECT THE VIDEO SERVICE NETWORK OR CABLE SYSTEM, AS IT MAY
37 BE RELOCATED FROM TIME TO TIME, TO TRANSMIT PROGRAMMING TO AND FROM
38 EXISTING LOCATIONS OF PUBLIC, EDUCATIONAL OR GOVERNMENTAL ACCESS
39 FACILITIES AND TO ALLOW MONITORING OF ACCESS PROGRAMMING AT THE
40 FACILITIES.

41 (ii) TO TRANSMIT PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS
42 CHANNELS TO SUBSCRIBERS WITH THE SAME PREVAILING QUALITY, FUNCTIONALITY
43 AND IDENTIFICATION AS OTHER CHANNELS.

44 (d) MAY REQUIRE ALL VIDEO SERVICE PROVIDERS AND INCUMBENT CABLE
45 OPERATORS TO PROVIDE AT NO INITIAL OR RECURRING CHARGE THE BASIC SERVICE

1 TIER OF VIDEO SERVICE TO ONE OUTLET AND ONE RECEIVING DEVICE AT EACH
2 BUILDING OCCUPIED BY THE LOCAL GOVERNMENT IF THE BUILDING IS NOT MORE THAN
3 TWO HUNDRED FEET FROM THE NEAREST TECHNICALLY AND COMMERCIALY FEASIBLE
4 POINT OF CONNECTION ON THE VIDEO SERVICE NETWORK.

5 2. A LOCAL GOVERNMENT MAY RETAIN NONRECEIVING EQUIPMENT THAT IT
6 OWNS WITHOUT CHARGE FOR THE EQUIPMENT'S USE AND AT THE LOCAL GOVERNMENT'S
7 EXPENSE, INCLUDING EQUIPMENT PREVIOUSLY PROVIDED BY AN INCUMBENT CABLE
8 OPERATOR.

9 E. A LOCAL LAW MAY NOT IMPOSE ANY OBLIGATION ON A VIDEO SERVICE
10 PROVIDER UNDER SUBSECTION D OF THIS SECTION THAT IS MORE BURDENSOME THAN
11 THE LEAST BURDENSOME REQUIREMENT UNDER ANY LOCAL LICENSE WITH A SERVICE
12 AREA WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT THAT WAS IN EFFECT ON
13 FEBRUARY 1, 2019.

14 F. NONE OF THE ANNUAL FAIR MARKET VALUE OF ANY CHANNEL CAPACITY
15 PROVIDED PURSUANT TO SUBSECTION D, PARAGRAPH 1, SUBDIVISION (a), THE
16 ANNUAL COSTS AND EXPENSES INCURRED PURSUANT TO SUBSECTION D, PARAGRAPH 1,
17 SUBDIVISION (c) AND THE ANNUAL FAIR MARKET VALUE OF BASIC SERVICE AND LINE
18 EXTENSION PROVIDED PURSUANT TO SUBSECTION D, PARAGRAPH 1, SUBDIVISION (d)
19 MAY BE OFFSET AGAINST THE LICENSE FEE LEVIED OR ASSESSED UNDER THIS
20 SECTION.

21 G. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, BY A
22 NONDISCRIMINATORY LOCAL LAW THAT IMPOSES AND ENFORCES THE OBLIGATIONS
23 EQUALLY AND UNIFORMLY ON ALL VIDEO SERVICE PROVIDERS OPERATING WITHIN THE
24 BOUNDARIES OF A LOCAL GOVERNMENT, A LOCAL GOVERNMENT MAY REQUIRE THAT A
25 VIDEO SERVICE PROVIDER BEAR ALL OF THE REASONABLE COSTS THAT ARE
26 ASSOCIATED WITH REPAIR AND RESTORATION OF DAMAGE CAUSED TO PRIVATE
27 PROPERTY OR HIGHWAYS BY THE REPAIR, REPLACEMENT, INSTALLATION,
28 CONSTRUCTION, MAINTENANCE OR OPERATION OF THE VIDEO SERVICE PROVIDER'S
29 FACILITIES IN THE HIGHWAYS AND THAT ARE IMPOSED ON A COMPETITIVELY NEUTRAL
30 AND NONDISCRIMINATORY BASIS IN RELATION TO COSTS BORNE BY
31 TELECOMMUNICATIONS CORPORATIONS UNDER SECTION 9-582, SUBSECTION C.

32 H. ON APPLICATION A LOCAL GOVERNMENT SHALL ISSUE TO A VIDEO SERVICE
33 PROVIDER OR ITS AFFILIATE A PERMIT TO ATTACH ALLOWED WI-FI RADIO EQUIPMENT
34 TO THE VIDEO SERVICE NETWORK IN THE HIGHWAYS WITHIN THE BOUNDARIES OF THE
35 LOCAL GOVERNMENT. THE PERMIT SHALL ALLOW INSTALLATION, OPERATION AND
36 MAINTENANCE OF ALLOWED WI-FI RADIO EQUIPMENT. A LOCAL GOVERNMENT MAY
37 REQUIRE THAT ALL OF THE ALLOWED WI-FI RADIO EQUIPMENT AT A SINGLE LOCATION
38 FIT WITHIN A FIFTEEN-INCH CUBE AND BE CONTAINED ENTIRELY WITHIN A
39 GROUND-MOUNTED PEDESTAL OR BE CONNECTED DIRECTLY TO AND MOUNTED AT THE
40 SAME HEIGHT AS ONE OF THE VIDEO SERVICE PROVIDER'S AERIAL HORIZONTAL
41 CONDUCTORS. THIS SUBSECTION DOES NOT DO ANY OF THE FOLLOWING:

42 1. PROHIBIT A LOCAL GOVERNMENT FROM REQUIRING A VIDEO SERVICE
43 PROVIDER TO PLACE UNDERGROUND AERIAL FACILITIES TO WHICH ALLOWED WI-FI
44 EQUIPMENT IS ATTACHED.

1 2. PROHIBIT THE IMPOSITION OF A TAX, RENT, FEE OR CHARGE ON REVENUE
2 FROM SERVICES PROVIDED THROUGH ALLOWED WI-FI RADIO EQUIPMENT.

3 3. AFFECT THE AUTHORITY OF A LOCAL GOVERNMENT TO MANAGE THE
4 HIGHWAYS WITHIN ITS BOUNDARIES OR TO EXERCISE ITS POLICE POWERS, INCLUDING
5 REVIEW AND APPROVAL OF AN APPLICATION BEFORE ISSUING A PERMIT.

6 4. AFFECT ANY AUTHORITY OF A POLITICAL SUBDIVISION, INCLUDING AN
7 AGRICULTURAL IMPROVEMENT DISTRICT OR ANY OTHER SPECIAL TAXING DISTRICT,
8 THE LOCAL GOVERNMENT OR ANY OTHER PERSON CONTROLLING UTILITY POLES IN THE
9 HIGHWAYS TO DENY, LIMIT, RESTRICT OR DETERMINE THE TERMS AND CONDITIONS
10 FOR THE USE OF OR ATTACHMENT TO THE UTILITY POLES OR ATTACHMENTS TO OTHER
11 POLES OF THE POLITICAL SUBDIVISION, LOCAL GOVERNMENT OR OTHER PERSON BY A
12 VIDEO SERVICE PROVIDER.

13 I. THIS SECTION DOES NOT PROHIBIT A VIDEO SERVICE PROVIDER FROM
14 AGREEING WITH A LOCAL GOVERNMENT TO PROVIDE IN-KIND SERVICES OR GOODS OR
15 MAKE IN-KIND PAYMENTS IN THE SERVICE AREA THAT ARE OTHERWISE PROHIBITED BY
16 THIS SECTION IF THE AGREEMENT WITH THE LOCAL GOVERNMENT IS NOT ENTERED
17 INTO AS A CONDITION OF OPERATING IN THE SERVICE AREA UNDER A UNIFORM VIDEO
18 SERVICE LICENSE ISSUED PURSUANT TO THIS CHAPTER. THE AGREEMENT MAY
19 AUTHORIZE THE VIDEO SERVICE PROVIDER TO RETAIN LICENSE FEES AND TAXES
20 COLLECTED FROM ITS SUBSCRIBERS IN THE AMOUNT OF ANY OFFSET TO LICENSE FEES
21 SPECIFIED IN THE AGREEMENT.

22 J. FOR THE PURPOSES OF THIS SECTION, "ALLOWED WI-FI RADIO
23 EQUIPMENT" MEANS RADIO EQUIPMENT THAT USES ONLY UNLICENSED RADIO SPECTRUM
24 AND THAT ENABLES WIRELESS COMMUNICATION WITH A COMMUNICATIONS NETWORK FOR
25 UNLICENSED SERVICES SUCH AS WI-FI SERVICE.

26 9-1443. License fee; requirements, conditions and
27 limitations; pass through to subscribers

28 A. FOR THE PRIVILEGE OF A VIDEO SERVICE PROVIDER TO OCCUPY OR USE,
29 IN WHOLE OR IN PART, ANY HIGHWAY WITHIN THE BOUNDARIES OF A LOCAL
30 GOVERNMENT TO PROVIDE VIDEO SERVICE THROUGH A VIDEO SERVICE NETWORK, THE
31 LOCAL GOVERNMENT MAY REQUIRE A VIDEO SERVICE PROVIDER TO PAY A LICENSE FEE
32 TO THE LOCAL GOVERNMENT BASED ON THE GROSS REVENUE THAT THE VIDEO SERVICE
33 PROVIDER RECEIVES FROM ITS SUBSCRIBERS LOCATED WITHIN THE BOUNDARIES OF
34 THE LOCAL GOVERNMENT. THE LICENSE FEE BOTH:

35 1. IS SUBJECT TO THE LIMIT PRESCRIBED IN SECTION 9-1442, SUBSECTION
36 B AND TO OFFSET, INCLUDING AMOUNTS COLLECTED FROM SUBSCRIBERS, AS
37 PRESCRIBED BY SECTION 9-1442, SUBSECTIONS A AND I AND SUBSECTION D OF THIS
38 SECTION.

39 2. SHALL BE DUE NO MORE OFTEN THAN QUARTERLY.

40 B. IF THE LOCAL GOVERNMENT REQUIRES A LICENSE FEE PURSUANT TO
41 SUBSECTION A OF THIS SECTION, THE LOCAL GOVERNMENT SHALL ADOPT A LOCAL LAW
42 THAT IMPOSES THE LICENSE FEE EQUALLY AND UNIFORMLY ON ALL OF THE FOLLOWING
43 THAT ARE OPERATING WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT:

44 1. VIDEO SERVICE PROVIDERS.

45 2. HOLDOVER CABLE OPERATORS.

1 C. A VIDEO SERVICE PROVIDER SHALL PAY THE ENTIRE AMOUNT OF THE
2 LICENSE FEE DIRECTLY TO THE LOCAL GOVERNMENT IN A CHECK, DRAFT OR NOTE OR
3 AUTOMATED CLEARING HOUSE TRANSACTION THAT IS PAYABLE IN LEGAL TENDER AS
4 DEFINED IN SECTION 43-1021.

5 D. A VIDEO SERVICE PROVIDER MAY DO ALL OF THE FOLLOWING:

6 1. PASS THE LICENSE FEE THROUGH TO AND COLLECT THE LICENSE FEE FROM
7 ITS SUBSCRIBERS WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT, INCLUDING
8 FOR AN INCUMBENT CABLE OPERATOR ANY CHANGE IN LICENSE FEES THAT RESULTS
9 FROM A CHANGE IN THE APPLICABLE DEFINITION OF GROSS REVENUE.

10 2. DESIGNATE THE AMOUNT OF THE LICENSE FEE COLLECTED FROM EACH
11 SUBSCRIBER AS A SEPARATE LINE ITEM ON THE SUBSCRIBER'S BILL.

12 9-1444. Ownership of a video service network

13 A. A CITY OR TOWN MAY NOT ACQUIRE AN OWNERSHIP INTEREST IN A VIDEO
14 SERVICE NETWORK UNLESS THE OWNERSHIP INTEREST IS ACQUIRED AT NOT LESS THAN
15 FAIR MARKET VALUE.

16 B. EXCEPT FOR THE PURPOSES OF ACTING AS AN INTERMEDIARY IN A
17 TRANSFER OF A UNIFORM VIDEO SERVICE LICENSE, A COUNTY MAY NOT OWN A VIDEO
18 SERVICE NETWORK.

19 9-1445. Review and audit; bundling discounts; action to
20 recover underpayment or overpayment

21 A. NOT MORE THAN ONCE EVERY THREE YEARS, A LOCAL GOVERNMENT MAY ON
22 REASONABLE WRITTEN NOTICE AUDIT THE BUSINESS BOOKS AND RECORDS OF A VIDEO
23 SERVICE PROVIDER TO THE EXTENT NECESSARY TO ENSURE PAYMENT OF LICENSE FEES
24 PURSUANT TO THIS CHAPTER. THE LOCAL GOVERNMENT MAY NOT AUDIT ANY PERIOD
25 THAT ENDS MORE THAN THREE YEARS BEFORE THE DATE THAT THE NOTICE OF AUDIT
26 IS RECEIVED. ANY AUDITS OF A PERIOD OF TIME BEFORE ISSUANCE OF A UNIFORM
27 VIDEO SERVICE LICENSE SHALL BE CONDUCTED PURSUANT TO THE LOCAL LAWS IN
28 EFFECT DURING THE PERIOD OF TIME.

29 B. EXCEPT AS OTHERWISE PROVIDED BY FEDERAL LAW, IF A VIDEO SERVICE
30 PROVIDER OFFERS VIDEO SERVICE BUNDLED WITH OTHER SERVICES THAT ARE NOT
31 VIDEO SERVICE FOR A SINGLE DISCOUNTED PRICE, ALL OF THE FOLLOWING APPLY:

32 1. THE METHOD THAT THE VIDEO SERVICE PROVIDER USES TO DETERMINE
33 GROSS REVENUE SUBJECT TO LICENSE FEES BY ALLOCATING THE SINGLE DISCOUNTED
34 PRICE AMONG THE BUNDLE OF VIDEO SERVICE AND NONVIDEO SERVICES SHALL BE
35 REASONABLE AND SUPPORTED BY THE VIDEO SERVICE PROVIDER'S BOOKS AND
36 RECORDS.

37 2. THE LOCAL GOVERNMENT SHALL ACCEPT AS REASONABLE, FOR PURPOSES OF
38 MEETING THE VIDEO SERVICE PROVIDER'S BURDEN OF PROOF, AN ALLOCATION BASED
39 ON AN OBJECTIVE AND VERIFIABLE METHOD USING THE BOOKS AND RECORDS THAT THE
40 VIDEO SERVICE PROVIDER KEPT IN THE REGULAR COURSE OF BUSINESS FOR OTHER
41 PURPOSES, INCLUDING NONTAX PURPOSES.

42 3. A VIDEO SERVICE PROVIDER MAY NOT USE BUNDLED OFFERINGS AS A
43 MEANS TO EVADE PAYING LICENSE FEES.

44 C. THE LOCAL GOVERNMENT AND THE VIDEO SERVICE PROVIDER SHALL EACH
45 PAY ITS OWN COSTS AND FEES RELATING TO EACH AUDIT PERFORMED PURSUANT TO

1 SUBSECTION A OF THIS SECTION. IF THE SUM DETERMINED TO BE UNDERPAID
2 EXCEEDS FIVE PERCENT OF THE TOTAL FEES THAT THE AUDIT DETERMINES SHOULD
3 HAVE BEEN PAID FOR THE PERIOD, THE VIDEO SERVICE PROVIDER SHALL PAY THE
4 LOCAL GOVERNMENT'S REASONABLE COSTS OF THE AUDIT.

5 D. THE RATE OF INTEREST FOR BOTH UNDERPAYMENTS AND OVERPAYMENTS IS
6 THE FEDERAL SHORT-TERM RATE DETERMINED PURSUANT TO 26 UNITED STATES CODE
7 SECTION 6621(b), PLUS THREE PERCENTAGE POINTS.

8 E. A PERSON THAT PERFORMS A REVIEW AND AUDIT UNDER SUBSECTION A OF
9 THIS SECTION MAY NOT RECEIVE COMPENSATION THAT IS BASED, IN WHOLE OR IN
10 PART, ON EITHER OF THE FOLLOWING:

11 1. FINDING A PARTICULAR RESULT.

12 2. THE AMOUNT OF ANY UNDERPAYMENT OR OVERPAYMENT OF THE LICENSE FEE
13 THAT IS IDENTIFIED BECAUSE OF THE REVIEW AND AUDIT.

14 F. A COMPLAINT BY A LOCAL GOVERNMENT FOR UNDERPAYMENT OF A LICENSE
15 FEE FROM A VIDEO SERVICE PROVIDER OR BY A VIDEO SERVICE PROVIDER FOR
16 OVERPAYMENT OF A LICENSE FEE TO A LOCAL GOVERNMENT SHALL BE MADE PURSUANT
17 TO ARTICLE 5 OF THIS CHAPTER.

18 G. A COMPLAINT FOR A VIOLATION OF THE LICENSE FEE OBLIGATIONS UNDER
19 THIS CHAPTER MAY NOT BE MADE UNLESS A WRITTEN DEMAND BY A LOCAL GOVERNMENT
20 FOR PAYMENT OF THE LICENSE FEES OR A WRITTEN DEMAND BY A VIDEO SERVICE
21 PROVIDER FOR REFUND OF LICENSE FEES IS MADE WITHIN FOUR MONTHS AFTER THE
22 LOCAL GOVERNMENT OR VIDEO SERVICE PROVIDER REALIZES IT HAS BEEN DAMAGED OR
23 KNOWS OR REASONABLY SHOULD KNOW OF THE DAMAGE CAUSED BY THE ALLEGED
24 VIOLATION.

25 H. A COMPLAINT MUST BE FILED PURSUANT TO ARTICLE 5 OF THIS CHAPTER
26 WITHIN TWO YEARS AFTER THE WRITTEN DEMAND IS MADE PURSUANT TO THIS
27 SUBSECTION BUT NOT SOONER THAN FOUR MONTHS AFTER THE WRITTEN DEMAND.

28 ARTICLE 5. ENFORCEMENT

29 9-1451. Enforcement; office of administrative hearings; fees;
30 fund

31 A. A LOCAL GOVERNMENT MAY FILE A WRITTEN COMPLAINT AGAINST A VIDEO
32 SERVICE PROVIDER AND A VIDEO SERVICE PROVIDER MAY FILE A WRITTEN COMPLAINT
33 AGAINST A LOCAL GOVERNMENT ALLEGING A VIOLATION OF THIS CHAPTER OR THE
34 UNIFORM VIDEO SERVICE LICENSE AGREEMENT. UNLESS OTHERWISE PROVIDED IN
35 SECTION 9-1445, SUBSECTIONS F, G AND H OR THIS SECTION:

36 1. ALL COMPLAINTS MUST BE FILED WITH THE OFFICE OF ADMINISTRATIVE
37 HEARINGS.

38 2. THE COMPLAINANT MUST SERVE A COPY OF THE COMPLAINT ON THE PARTY
39 THAT IS THE SUBJECT OF THE COMPLAINT BY PERSONAL DELIVERY OR CERTIFIED
40 MAIL, RETURN RECEIPT REQUESTED, OR BY ANY OTHER METHOD REASONABLY
41 CALCULATED TO EFFECT ACTUAL NOTICE TO THE LOCAL GOVERNMENT'S LAST ADDRESS
42 OF RECORD FOR THE PARTY THAT IS THE SUBJECT OF THE COMPLAINT.

43 3. THE PARTY THAT IS THE SUBJECT OF THE COMPLAINT MAY FILE A
44 RESPONSE TO THE COMPLAINT WITH THE OFFICE OF ADMINISTRATIVE HEARINGS
45 WITHIN TWENTY DAYS AFTER SERVICE PURSUANT TO PARAGRAPH 2 OF THIS

1 SUBSECTION. RESPONSES SHALL BE SERVED PURSUANT TO PARAGRAPH 2 OF THIS
2 SUBSECTION.

3 B. BEFORE FILING A COMPLAINT PURSUANT TO THIS SECTION ALL OF THE
4 FOLLOWING APPLY:

5 1. THE COMPLAINANT MUST PROVIDE NOTICE OF THE ALLEGED VIOLATION OF
6 THIS CHAPTER TO THE PARTY THAT IS THE SUBJECT OF THE COMPLAINT.

7 2. THE PARTY THAT IS THE SUBJECT OF THE COMPLAINT MUST HAVE A
8 PERIOD OF NOT LESS THAN TWENTY DAYS AFTER THE DATE IT RECEIVES THE NOTICE
9 TO RESOLVE THE ALLEGED VIOLATION.

10 C. A HEARING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL BE
11 HELD IF A COMPLAINT THAT COMPLIES WITH THIS SECTION IS FILED WITH THE
12 OFFICE OF ADMINISTRATIVE HEARINGS. UNLESS OTHER DEADLINES ARE ESTABLISHED
13 FOR A PARTICULAR COMPLAINT, ALL OF THE FOLLOWING APPLY:

14 1. THE HEARING SHALL BE HELD WITHIN TWO MONTHS AFTER THE DATE THAT
15 THE COMPLAINT IS FILED AND SERVICE IS COMPLETED PURSUANT TO SUBSECTION A
16 OF THIS SECTION.

17 2. THE DATE SCHEDULED FOR THE HEARING MAY BE ADVANCED OR DELAYED ON
18 THE AGREEMENT OF THE PARTIES OR ON A SHOWING OF GOOD CAUSE.

19 D. THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL PREPARE AND SERVE A
20 NOTICE OF HEARING ON ALL PARTIES AT LEAST ONE MONTH BEFORE THE HEARING
21 THAT STATES THE TIME AND PLACE OF THE HEARING.

22 E. A PREHEARING CONFERENCE MAY BE HELD PURSUANT TO SECTION
23 41-1092.05.

24 F. UNLESS IT CONFLICTS WITH THE REQUIREMENTS OF THIS SECTION, THE
25 HEARING SHALL BE CONDUCTED PURSUANT TO SECTION 41-1092.07.

26 G. THE COMPLAINANT HAS THE BURDEN OF PERSUASION AT A HEARING UNDER
27 THIS SECTION.

28 H. THE DECISION OF THE ADMINISTRATIVE LAW JUDGE IS THE FINAL
29 ADMINISTRATIVE DECISION WITH RESPECT TO THE COMPLAINT. THE OFFICE OF
30 ADMINISTRATIVE HEARINGS SHALL SERVE A COPY OF THE ADMINISTRATIVE LAW
31 JUDGE'S DECISION ON ALL PARTIES. THE FINAL ADMINISTRATIVE DECISION MAY BE
32 APPEALED TO THE SUPERIOR COURT PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.
33 NOTWITHSTANDING SECTION 12-910, THE SUPERIOR COURT PROCEEDING SHALL BE A
34 TRIAL DE NOVO.

35 I. A PARTY MAY MOVE FOR REHEARING PURSUANT TO SECTION 41-1092.09
36 AND THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL RULE ON THE MOTION. MOVING
37 FOR REHEARING OR REVIEW IS NOT NECESSARY FOR THE PARTY TO SEEK JUDICIAL
38 REVIEW OF THE DECISION OF THE ADMINISTRATIVE LAW JUDGE UNDER SUBSECTION H
39 OF THIS SECTION.

40 J. SERVICE IS COMPLETE ON PERSONAL SERVICE OR FIVE DAYS AFTER THE
41 DATE THAT THE OFFICE OF ADMINISTRATIVE HEARINGS MAILES THE FINAL
42 ADMINISTRATIVE DECISION TO EACH PARTY'S LAST KNOWN ADDRESS OF RECORD WITH
43 THE LOCAL GOVERNMENT.

44 K. THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ADOPT RULES PURSUANT
45 TO TITLE 41, CHAPTER 6 TO ADMINISTER HEARINGS UNDER THIS CHAPTER.

1 L. THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ESTABLISH,
2 ADMINISTER AND COLLECT FEES IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR
3 OF THE OFFICE OF ADMINISTRATIVE HEARINGS. THE DIRECTOR SHALL DEPOSIT,
4 PURSUANT TO SECTIONS 35-146 AND 35-147, ALL MONIES IN THE VIDEO SERVICE
5 PROVIDER COMPLAINT FUND ESTABLISHED BY SUBSECTION M OF THIS SECTION.

6 M. THE VIDEO SERVICE PROVIDER COMPLAINT FUND IS ESTABLISHED
7 CONSISTING OF MONIES COLLECTED PURSUANT TO SUBSECTION L OF THIS SECTION.
8 THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ADMINISTER THE FUND. MONIES
9 IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE OFFICE OF ADMINISTRATIVE
10 HEARINGS SHALL USE THE MONIES IN THE FUND FOR THE PURPOSE OF ADMINISTERING
11 THE DUTIES SPECIFIED IN THIS ARTICLE.

12 9-1452. Statute of limitations; costs and attorney fees;
13 federal subscriber service requirements

14 A. EXCEPT AS PROVIDED IN SECTION 9-1445, SUBSECTIONS F, G AND H, A
15 COMPLAINT UNDER THIS ARTICLE MUST BE FILED WITHIN TWO YEARS AFTER THE
16 COMPLAINANT REALIZES IT HAS BEEN DAMAGED AND KNOWS OR REASONABLY SHOULD
17 KNOW THE CAUSE, SOURCE, ACT, EVENT, INSTRUMENTALITY OR CONDITION THAT
18 CAUSED OR CONTRIBUTED TO THE ALLEGED VIOLATION.

19 B. EACH PARTY TO A DISPUTE UNDER THIS CHAPTER SHALL BEAR ITS OWN
20 ATTORNEY FEES AND COSTS.

21 C. THIS ARTICLE DOES NOT APPLY TO CLAIMS THAT A VIDEO SERVICE
22 PROVIDER HAS FAILED TO MEET SUBSCRIBER SERVICE STANDARDS PRESCRIBED BY
23 SECTION 9-1433, SUBSECTION B, PARAGRAPH 5 OR HAS VIOLATED TITLE 44,
24 CHAPTER 10, ARTICLE 7. CLAIMS OF VIOLATIONS OF FEDERAL SUBSCRIBER SERVICE
25 STANDARDS SHALL BE MADE PURSUANT TO THE PROCEDURE ESTABLISHED UNDER
26 FEDERAL LAW.

27 Sec. 2. Section 41-1092.01, Arizona Revised Statutes, is amended to
28 read:

29 41-1092.01. Office of administrative hearings; director;
30 powers and duties; fund

31 A. An office of administrative hearings is established.

32 B. The governor shall appoint the director pursuant to section
33 38-211. At a minimum, the director shall have the experience necessary for
34 appointment as an administrative law judge. The director also shall
35 possess supervisory, management and administrative skills, as well as
36 knowledge and experience relating to administrative law.

37 C. The director shall:

38 1. Serve as the chief administrative law judge of the office.

39 2. Make and execute the contracts and other instruments that are
40 necessary to perform the director's duties.

41 3. Subject to chapter 4, article 4 of this title, hire employees,
42 including full-time administrative law judges, and contract for special
43 services, including temporary administrative law judges, that are
44 necessary to carry out this article. An administrative law judge employed
45 or contracted by the office shall have graduated from an accredited

1 college of law or shall have at least two years of administrative or
2 managerial experience in the subject matter or agency section the
3 administrative law judge is assigned to in the office.

4 4. Make rules that are necessary to carry out this article,
5 including rules governing ex parte communications in contested cases.

6 5. Submit a report to the governor, speaker of the house of
7 representatives and president of the senate by November 1 of each year
8 describing the activities and accomplishments of the office. The
9 director's annual report shall include a summary of the extent and effect
10 of agencies' utilization of administrative law judges, court reporters and
11 other personnel in proceedings under this article and recommendations for
12 changes or improvements in the administrative procedure act or any
13 agency's practice or policy with respect to the administrative procedure
14 act.

15 6. Secure, compile and maintain all decisions, opinions or reports
16 of administrative law judges issued pursuant to this article and the
17 reference materials and supporting information that may be appropriate.

18 7. Develop, implement and maintain a program for the continuing
19 training and education of administrative law judges and agencies in regard
20 to their responsibilities under this article. The program shall require
21 that an administrative law judge receive training in the technical and
22 subject matter areas of the sections to which the administrative law judge
23 is assigned.

24 8. Develop, implement and maintain a program of evaluation to aid
25 the director in the evaluation of administrative law judges appointed
26 pursuant to this article that includes comments received from the public.

27 9. Annually report the following to the governor, the president of
28 the senate and the speaker of the house of representatives by December 1
29 for the prior fiscal year:

30 (a) The number of administrative law judge decisions rejected or
31 modified by agency heads.

32 (b) By category, the number and disposition of motions filed
33 pursuant to section 41-1092.07, subsection A to disqualify office
34 administrative law judges for bias, prejudice, personal interest or lack
35 of expertise.

36 (c) By agency, the number and type of violations of section
37 41-1009.

38 10. Schedule hearings pursuant to section 41-1092.05 upon the
39 request of an agency or the filing of a notice of appeal pursuant to
40 section 41-1092.03.

41 D. The director shall not require legal representation to appear
42 before an administrative law judge.

43 E. Except as provided in subsection F of this section, all state
44 agencies supported by state general fund sources, unless exempted by this
45 article, and the registrar of contractors shall use the services and

1 personnel of the office to conduct administrative hearings. All other
2 agencies shall contract for services and personnel of the office to
3 conduct administrative hearings.

4 F. An agency head, board or commission that directly conducts an
5 administrative hearing as an administrative law judge is not required to
6 use the services and personnel of the office for that hearing.

7 G. Each state agency, and each political subdivision contracting
8 for office services pursuant to subsection I of this section, shall make
9 its facilities available, as necessary, for use by the office in
10 conducting proceedings pursuant to this article.

11 H. The office shall employ full-time administrative law judges to
12 conduct hearings required by this article or other laws as follows:

13 1. The director shall assign administrative law judges from the
14 office to an agency, on either a temporary or a permanent basis, at
15 supervisory or other levels, to preside over contested cases and
16 appealable agency actions in accordance with the special expertise of the
17 administrative law judge in the subject matter of the agency.

18 2. The director shall establish the subject matter and agency
19 sections within the office that are necessary to carry out this
20 article. Each subject matter and agency section shall provide training in
21 the technical and subject matter areas of the section as prescribed in
22 subsection C, paragraph 7 of this section.

23 I. If the office cannot furnish an office administrative law judge
24 promptly in response to an agency request, the director may contract with
25 qualified individuals to serve as temporary administrative law
26 judges. These temporary administrative law judges are not employees of
27 this state.

28 J. The office may provide administrative law judges on a contract
29 basis to any governmental entity to conduct any hearing not covered by
30 this article. The director may enter into contracts with political
31 subdivisions of this state, and these political subdivisions may contract
32 with the director for the purpose of providing administrative law judges
33 and reporters for administrative proceedings or informal dispute
34 resolution. The contract may define the scope of the administrative law
35 judge's duties. Those duties may include the preparation of findings,
36 conclusions, decisions or recommended decisions or a recommendation for
37 action by the political subdivision. For these services, the director
38 shall request payment for services directly from the political subdivision
39 for which the services are performed, and the director may accept payment
40 on either an advance or reimbursable basis.

41 K. The office shall apply monies received pursuant to subsections E
42 and J of this section to offset its actual costs for providing personnel
43 and services.

1 L. THE OFFICE SHALL RECEIVE COMPLAINTS AGAINST A LOCAL GOVERNMENT
2 OR VIDEO SERVICE PROVIDER AS DEFINED IN SECTION 9-1401 AND SHALL COMPLY
3 WITH THE DUTIES IMPOSED ON THE OFFICE PURSUANT TO TITLE 9, CHAPTER 13.

4 Sec. 3. Legislative findings

5 Pursuant to section 41-1107, Arizona Revised Statutes, the
6 legislature has determined that it is reasonable and necessary to promote
7 a matter of statewide concern by regulating the licensure and provision of
8 video service to promote all of the following:

9 1. Provision of competitive video, telecommunications and
10 information service throughout this state.

11 2. More uniform regulation of competitive video service throughout
12 this state.

13 3. Streamlined licensing by local governments and more uniform
14 terms and conditions for video service providers that use highways to
15 provide video and other services over video service networks.

16 4. Continued management of local governments' use of their highways
17 with reasonable burdens on construction and maintenance across boundaries
18 between local governments for video service providers to use highways.

19 5. Continued levying of license fees by local governments on
20 subscriber service revenues derived from operating video service networks
21 to provide video service.

22 6. Support for federal subscriber service standards.

APPROVED BY THE GOVERNOR MAY 16, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 16, 2018.