

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Small Wireless Facilities Deployment Act is
5 reenacted and amended as follows:

6 (50 ILCS 840/Act title)

7 An Act concerning local government.

8 (50 ILCS 840/1) (was 50 ILCS 835/1)

9 Sec. 1. Short title. This Act may be cited as the Small
10 Wireless Facilities Deployment Act.

11 (Source: P.A. 100-585, eff. 6-1-18.)

12 (50 ILCS 840/5) (was 50 ILCS 835/5)

13 Sec. 5. Legislative intent. Small wireless facilities are
14 critical to delivering wireless access to advanced technology,
15 broadband, and 9-1-1 services to homes, businesses, and
16 schools in Illinois. Because of the integral role that the
17 delivery of wireless technology plays in the economic vitality
18 of the State of Illinois and in the lives of its citizens, the
19 General Assembly has determined that a law addressing the
20 deployment of wireless technology is of vital interest to the
21 State. To ensure that public and private Illinois consumers

1 continue to benefit from these services as soon as possible
2 and to ensure that providers of wireless access have a fair and
3 predictable process for the deployment of small wireless
4 facilities in a manner consistent with the character of the
5 area in which the small wireless facilities are deployed, the
6 General Assembly is enacting this Act, which specifies how
7 local authorities may regulate the collocation of small
8 wireless facilities.

9 (Source: P.A. 100-585, eff. 6-1-18.)

10 (50 ILCS 840/7) (was 50 ILCS 835/7)

11 Sec. 7. Applicability. This Act does not apply to a
12 municipality with a population of 1,000,000 or more.

13 (Source: P.A. 100-585, eff. 6-1-18.)

14 (50 ILCS 840/10) (was 50 ILCS 835/10)

15 Sec. 10. Definitions. As used in this Act:

16 "Antenna" means communications equipment that transmits or
17 receives electromagnetic radio frequency signals used in the
18 provision of wireless services.

19 "Applicable codes" means uniform building, fire,
20 electrical, plumbing, or mechanical codes adopted by a
21 recognized national code organization or local amendments to
22 those codes, including the National Electric Safety Code.

23 "Applicant" means any person who submits an application
24 and is a wireless provider.

1 "Application" means a request submitted by an applicant to
2 an authority for a permit to collocate small wireless
3 facilities, and a request that includes the installation of a
4 new utility pole for such collocation, as well as any
5 applicable fee for the review of such application.

6 "Authority" means a unit of local government that has
7 jurisdiction and control for use of public rights-of-way as
8 provided by the Illinois Highway Code for placements within
9 public rights-of-way or has zoning or land use control for
10 placements not within public rights-of-way.

11 "Authority utility pole" means a utility pole owned or
12 operated by an authority in public rights-of-way.

13 "Collocate" or "collocation" means to install, mount,
14 maintain, modify, operate, or replace wireless facilities on
15 or adjacent to a wireless support structure or utility pole.

16 "Communications service" means cable service, as defined
17 in 47 U.S.C. 522(6), as amended; information service, as
18 defined in 47 U.S.C. 153(24), as amended; telecommunications
19 service, as defined in 47 U.S.C. 153(53), as amended; mobile
20 service, as defined in 47 U.S.C. 153(33), as amended; or
21 wireless service other than mobile service.

22 "Communications service provider" means a cable operator,
23 as defined in 47 U.S.C. 522(5), as amended; a provider of
24 information service, as defined in 47 U.S.C. 153(24), as
25 amended; a telecommunications carrier, as defined in 47 U.S.C.
26 153(51), as amended; or a wireless provider.

1 "FCC" means the Federal Communications Commission of the
2 United States.

3 "Fee" means a one-time charge.

4 "Historic district" or "historic landmark" means a
5 building, property, or site, or group of buildings,
6 properties, or sites that are either (i) listed in the
7 National Register of Historic Places or formally determined
8 eligible for listing by the Keeper of the National Register,
9 the individual who has been delegated the authority by the
10 federal agency to list properties and determine their
11 eligibility for the National Register, in accordance with
12 Section VI.D.1.a.i through Section VI.D.1.a.v of the
13 Nationwide Programmatic Agreement codified at 47 CFR Part 1,
14 Appendix C; or (ii) designated as a locally landmarked
15 building, property, site, or historic district by an ordinance
16 adopted by the authority pursuant to a preservation program
17 that meets the requirements of the Certified Local Government
18 Program of the Illinois State Historic Preservation Office or
19 where such certification of the preservation program by the
20 Illinois State Historic Preservation Office is pending.

21 "Law" means a federal or State statute, common law, code,
22 rule, regulation, order, or local ordinance or resolution.

23 "Micro wireless facility" means a small wireless facility
24 that is not larger in dimension than 24 inches in length, 15
25 inches in width, and 12 inches in height and that has an
26 exterior antenna, if any, no longer than 11 inches.

1 "Permit" means a written authorization required by an
2 authority to perform an action or initiate, continue, or
3 complete a project.

4 "Person" means an individual, corporation, limited
5 liability company, partnership, association, trust, or other
6 entity or organization, including an authority.

7 "Public safety agency" means the functional division of
8 the federal government, the State, a unit of local government,
9 or a special purpose district located in whole or in part
10 within this State, that provides or has authority to provide
11 firefighting, police, ambulance, medical, or other emergency
12 services to respond to and manage emergency incidents.

13 "Rate" means a recurring charge.

14 "Right-of-way" means the area on, below, or above a public
15 roadway, highway, street, public sidewalk, alley, or utility
16 easement dedicated for compatible use. "Right-of-way" does not
17 include authority-owned aerial lines.

18 "Small wireless facility" means a wireless facility that
19 meets both of the following qualifications: (i) each antenna
20 is located inside an enclosure of no more than 6 cubic feet in
21 volume or, in the case of an antenna that has exposed elements,
22 the antenna and all of its exposed elements could fit within an
23 imaginary enclosure of no more than 6 cubic feet; and (ii) all
24 other wireless equipment attached directly to a utility pole
25 associated with the facility is cumulatively no more than 25
26 cubic feet in volume. The following types of associated

1 ancillary equipment are not included in the calculation of
2 equipment volume: electric meter, concealment elements,
3 telecommunications demarcation box, ground-based enclosures,
4 grounding equipment, power transfer switch, cut-off switch,
5 and vertical cable runs for the connection of power and other
6 services.

7 "Utility pole" means a pole or similar structure that is
8 used in whole or in part by a communications service provider
9 or for electric distribution, lighting, traffic control, or a
10 similar function.

11 "Wireless facility" means equipment at a fixed location
12 that enables wireless communications between user equipment
13 and a communications network, including: (i) equipment
14 associated with wireless communications; and (ii) radio
15 transceivers, antennas, coaxial or fiber-optic cable, regular
16 and backup power supplies, and comparable equipment,
17 regardless of technological configuration. "Wireless facility"
18 includes small wireless facilities. "Wireless facility" does
19 not include: (i) the structure or improvements on, under, or
20 within which the equipment is collocated; or (ii) wireline
21 backhaul facilities, coaxial or fiber optic cable that is
22 between wireless support structures or utility poles or
23 coaxial, or fiber optic cable that is otherwise not
24 immediately adjacent to or directly associated with an
25 antenna.

26 "Wireless infrastructure provider" means any person

1 authorized to provide telecommunications service in the State
2 that builds or installs wireless communication transmission
3 equipment, wireless facilities, wireless support structures,
4 or utility poles and that is not a wireless services provider
5 but is acting as an agent or a contractor for a wireless
6 services provider for the application submitted to the
7 authority.

8 "Wireless provider" means a wireless infrastructure
9 provider or a wireless services provider.

10 "Wireless services" means any services provided to the
11 general public, including a particular class of customers, and
12 made available on a nondiscriminatory basis using licensed or
13 unlicensed spectrum, whether at a fixed location or mobile,
14 provided using wireless facilities.

15 "Wireless services provider" means a person who provides
16 wireless services.

17 "Wireless support structure" means a freestanding
18 structure, such as a monopole; tower, either guyed or
19 self-supporting; billboard; or other existing or proposed
20 structure designed to support or capable of supporting
21 wireless facilities. "Wireless support structure" does not
22 include a utility pole.

23 (Source: P.A. 100-585, eff. 6-1-18.)

24 (50 ILCS 840/15) (was 50 ILCS 835/15)

25 Sec. 15. Regulation of small wireless facilities.

1 (a) This Section applies to activities of a wireless
2 provider within or outside rights-of-way.

3 (b) Except as provided in this Section, an authority may
4 not prohibit, regulate, or charge for the collocation of small
5 wireless facilities.

6 (c) Small wireless facilities shall be classified as
7 permitted uses and subject to administrative review in
8 conformance with this Act, except as provided in paragraph (5)
9 of subsection (d) of this Section regarding height exceptions
10 or variances, but not subject to zoning review or approval if
11 they are collocated (i) in rights-of-way in any zone, or (ii)
12 outside rights-of-way in property zoned exclusively for
13 commercial or industrial use.

14 (d) An authority may require an applicant to obtain one or
15 more permits to collocate a small wireless facility. An
16 authority shall receive applications for, process, and issue
17 permits subject to the following requirements:

18 (1) An authority may not directly or indirectly
19 require an applicant to perform services unrelated to the
20 collocation for which approval is sought, such as in-kind
21 contributions to the authority, including reserving fiber,
22 conduit, or utility pole space for the authority on the
23 wireless provider's utility pole. An authority may reserve
24 space on authority utility poles for future public safety
25 uses or for the authority's electric utility uses, but a
26 reservation of space may not preclude the collocation of a

1 small wireless facility unless the authority reasonably
2 determines that the authority utility pole cannot
3 accommodate both uses.

4 (2) An applicant shall not be required to provide more
5 information to obtain a permit than the authority requires
6 of a communications service provider that is not a
7 wireless provider that requests to attach facilities to a
8 structure; however, a wireless provider may be required to
9 provide the following information when seeking a permit to
10 collocate small wireless facilities on a utility pole or
11 wireless support structure:

12 (A) site specific structural integrity and, for an
13 authority utility pole, make-ready analysis prepared
14 by a structural engineer, as that term is defined in
15 Section 4 of the Structural Engineering Practice Act
16 of 1989;

17 (B) the location where each proposed small
18 wireless facility or utility pole would be installed
19 and photographs of the location and its immediate
20 surroundings depicting the utility poles or structures
21 on which each proposed small wireless facility would
22 be mounted or location where utility poles or
23 structures would be installed;

24 (C) specifications and drawings prepared by a
25 structural engineer, as that term is defined in
26 Section 4 of the Structural Engineering Practice Act

1 of 1989, for each proposed small wireless facility
2 covered by the application as it is proposed to be
3 installed;

4 (D) the equipment type and model numbers for the
5 antennas and all other wireless equipment associated
6 with the small wireless facility;

7 (E) a proposed schedule for the installation and
8 completion of each small wireless facility covered by
9 the application, if approved;

10 (F) certification that the collocation complies
11 with paragraph (6) to the best of the applicant's
12 knowledge; and

13 (G) the wireless provider's certification from a
14 radio engineer that it operates the small wireless
15 facility within all applicable FCC standards.

16 (3) Subject to paragraph (6), an authority may not
17 require the placement of small wireless facilities on any
18 specific utility pole, or category of utility poles, or
19 require multiple antenna systems on a single utility pole;
20 however, with respect to an application for the
21 collocation of a small wireless facility associated with a
22 new utility pole, an authority may propose that the small
23 wireless facility be collocated on an existing utility
24 pole or existing wireless support structure within 200
25 feet of the proposed collocation, which the applicant
26 shall accept if it has the right to use the alternate

1 structure on reasonable terms and conditions and the
2 alternate location and structure does not impose technical
3 limits or additional material costs as determined by the
4 applicant. The authority may require the applicant to
5 provide a written certification describing the property
6 rights, technical limits or material cost reasons the
7 alternate location does not satisfy the criteria in this
8 paragraph (3).

9 (4) Subject to paragraph (6), an authority may not
10 limit the placement of small wireless facilities mounted
11 on a utility pole or a wireless support structure by
12 minimum horizontal separation distances.

13 (5) An authority may limit the maximum height of a
14 small wireless facility to 10 feet above the utility pole
15 or wireless support structure on which the small wireless
16 facility is collocated. Subject to any applicable waiver,
17 zoning, or other process that addresses wireless provider
18 requests for an exception or variance and does not
19 prohibit granting of such exceptions or variances, the
20 authority may limit the height of new or replacement
21 utility poles or wireless support structures on which
22 small wireless facilities are collocated to the higher of:
23 (i) 10 feet in height above the tallest existing utility
24 pole, other than a utility pole supporting only wireless
25 facilities, that is in place on the date the application
26 is submitted to the authority, that is located within 300

1 feet of the new or replacement utility pole or wireless
2 support structure and that is in the same right-of-way
3 within the jurisdictional boundary of the authority,
4 provided the authority may designate which intersecting
5 right-of-way within 300 feet of the proposed utility pole
6 or wireless support structures shall control the height
7 limitation for such facility; or (ii) 45 feet above ground
8 level.

9 (6) An authority may require that:

10 (A) the wireless provider's operation of the small
11 wireless facilities does not interfere with the
12 frequencies used by a public safety agency for public
13 safety communications; a wireless provider shall
14 install small wireless facilities of the type and
15 frequency that will not cause unacceptable
16 interference with a public safety agency's
17 communications equipment; unacceptable interference
18 will be determined by and measured in accordance with
19 industry standards and the FCC's regulations
20 addressing unacceptable interference to public safety
21 spectrum or any other spectrum licensed by a public
22 safety agency; if a small wireless facility causes
23 such interference, and the wireless provider has been
24 given written notice of the interference by the public
25 safety agency, the wireless provider, at its own
26 expense, shall take all reasonable steps necessary to

1 correct and eliminate the interference, including, but
2 not limited to, powering down the small wireless
3 facility and later powering up the small wireless
4 facility for intermittent testing, if necessary; the
5 authority may terminate a permit for a small wireless
6 facility based on such interference if the wireless
7 provider is not making a good faith effort to remedy
8 the problem in a manner consistent with the abatement
9 and resolution procedures for interference with public
10 safety spectrum established by the FCC including 47
11 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672
12 through 47 CFR 90.675;

13 (B) the wireless provider comply with requirements
14 that are imposed by a contract between an authority
15 and a private property owner that concern design or
16 construction standards applicable to utility poles and
17 ground-mounted equipment located in the right-of-way;

18 (C) the wireless provider comply with applicable
19 spacing requirements in applicable codes and
20 ordinances concerning the location of ground-mounted
21 equipment located in the right-of-way if the
22 requirements include a waiver, zoning, or other
23 process that addresses wireless provider requests for
24 exception or variance and do not prohibit granting of
25 such exceptions or variances;

26 (D) the wireless provider comply with local code

1 provisions or regulations concerning undergrounding
2 requirements that prohibit the installation of new or
3 the modification of existing utility poles in a
4 right-of-way without prior approval if the
5 requirements include a waiver, zoning, or other
6 process that addresses requests to install such new
7 utility poles or modify such existing utility poles
8 and do not prohibit the replacement of utility poles;

9 (E) the wireless provider comply with generally
10 applicable standards that are consistent with this Act
11 and adopted by an authority for construction and
12 public safety in the rights-of-way, including, but not
13 limited to, reasonable and nondiscriminatory wiring
14 and cabling requirements, grounding requirements,
15 utility pole extension requirements, acoustic
16 regulations, and signage limitations; and shall comply
17 with reasonable and nondiscriminatory requirements
18 that are consistent with this Act and adopted by an
19 authority regulating the location, size, surface area
20 and height of small wireless facilities, or the
21 abandonment and removal of small wireless facilities;

22 (F) the wireless provider not collocate small
23 wireless facilities on authority utility poles that
24 are part of an electric distribution or transmission
25 system within the communication worker safety zone of
26 the pole or the electric supply zone of the pole;

1 however, the antenna and support equipment of the
2 small wireless facility may be located in the
3 communications space on the authority utility pole and
4 on the top of the pole, if not otherwise unavailable,
5 if the wireless provider complies with applicable
6 codes for work involving the top of the pole; for
7 purposes of this subparagraph (F), the terms
8 "communications space", "communication worker safety
9 zone", and "electric supply zone" have the meanings
10 given to those terms in the National Electric Safety
11 Code as published by the Institute of Electrical and
12 Electronics Engineers;

13 (G) the wireless provider comply with the
14 applicable codes and local code provisions or
15 regulations that concern public safety;

16 (H) the wireless provider comply with written
17 design standards that are generally applicable for
18 decorative utility poles, or reasonable stealth,
19 concealment, and aesthetic requirements that are
20 identified by the authority in an ordinance, written
21 policy adopted by the governing board of the
22 authority, a comprehensive plan, or other written
23 design plan that applies to other occupiers of the
24 rights-of-way, including on a historic landmark or in
25 a historic district;

26 (I) subject to subsection (c) of this Section, and

1 except for facilities excluded from evaluation for
2 effects on historic properties under 47 CFR
3 1.1307(a)(4), reasonable, technically feasible and
4 non-discriminatory design or concealment measures in a
5 historic district or historic landmark; any such
6 design or concealment measures, including restrictions
7 on a specific category of poles, may not have the
8 effect of prohibiting any provider's technology; such
9 design and concealment measures shall not be
10 considered a part of the small wireless facility for
11 purposes of the size restrictions of a small wireless
12 facility; this paragraph may not be construed to limit
13 an authority's enforcement of historic preservation in
14 conformance with the requirements adopted pursuant to
15 the Illinois State Agency Historic Resources
16 Preservation Act or the National Historic Preservation
17 Act of 1966, 54 U.S.C. Section 300101 et seq., and the
18 regulations adopted to implement those laws; and

19 (J) When a wireless provider replaces or adds a
20 new radio transceiver or antennas to an existing small
21 wireless facility, certification by the wireless
22 provider from a radio engineer that the continuing
23 operation of the small wireless facility complies with
24 all applicable FCC standards.

25 (7) Within 30 days after receiving an application, an
26 authority must determine whether the application is

1 complete and notify the applicant. If an application is
2 incomplete, an authority must specifically identify the
3 missing information. An application shall be deemed
4 complete if the authority fails to provide notification to
5 the applicant within 30 days after when all documents,
6 information, and fees specifically enumerated in the
7 authority's permit application form are submitted by the
8 applicant to the authority. Processing deadlines are
9 tolled from the time the authority sends the notice of
10 incompleteness to the time the applicant provides the
11 missing information.

12 (8) An authority shall process applications as
13 follows:

14 (A) an application to collocate a small wireless
15 facility on an existing utility pole or wireless
16 support structure shall be processed on a
17 nondiscriminatory basis and deemed approved if the
18 authority fails to approve or deny the application
19 within 90 days; however, if an applicant intends to
20 proceed with the permitted activity on a deemed
21 approved basis, the applicant must notify the
22 authority in writing of its intention to invoke the
23 deemed approved remedy no sooner than 75 days after
24 the submission of a completed application; the permit
25 shall be deemed approved on the latter of the 90th day
26 after submission of the complete application or the

1 10th day after the receipt of the deemed approved
2 notice by the authority; the receipt of the deemed
3 approved notice shall not preclude the authority's
4 denial of the permit request within the time limits as
5 provided under this Act; and

6 (B) an application to collocate a small wireless
7 facility that includes the installation of a new
8 utility pole shall be processed on a nondiscriminatory
9 basis and deemed approved if the authority fails to
10 approve or deny the application within 120 days;
11 however, if an applicant intends to proceed with the
12 permitted activity on a deemed approved basis, the
13 applicant must notify the authority in writing of its
14 intention to invoke the deemed approved remedy no
15 sooner than 105 days after the submission of a
16 completed application; the permit shall be deemed
17 approved on the latter of the 120th day after
18 submission of the complete application or the 10th day
19 after the receipt of the deemed approved notice by the
20 authority; the receipt of the deemed approved notice
21 shall not preclude the authority's denial of the
22 permit request within the time limits as provided
23 under this Act.

24 (9) An authority shall approve an application unless
25 the application does not meet the requirements of this
26 Act. If an authority determines that applicable codes,

1 local code provisions or regulations that concern public
2 safety, or the requirements of paragraph (6) require that
3 the utility pole or wireless support structure be replaced
4 before the requested collocation, approval may be
5 conditioned on the replacement of the utility pole or
6 wireless support structure at the cost of the provider.
7 The authority must document the basis for a denial,
8 including the specific code provisions or application
9 conditions on which the denial was based, and send the
10 documentation to the applicant on or before the day the
11 authority denies an application. The applicant may cure
12 the deficiencies identified by the authority and resubmit
13 the revised application once within 30 days after notice
14 of denial is sent to the applicant without paying an
15 additional application fee. The authority shall approve or
16 deny the revised application within 30 days after the
17 applicant resubmits the application or it is deemed
18 approved; however, the applicant must notify the authority
19 in writing of its intention to proceed with the permitted
20 activity on a deemed approved basis, which may be
21 submitted with the resubmitted application. Any subsequent
22 review shall be limited to the deficiencies cited in the
23 denial. However, this revised application cure does not
24 apply if the cure requires the review of a new location,
25 new or different structure to be collocated upon, new
26 antennas, or other wireless equipment associated with the

1 small wireless facility.

2 (10) The time period for applications may be further
3 tolled by:

4 (A) the express agreement in writing by both the
5 applicant and the authority; or

6 (B) a local, State, or federal disaster
7 declaration or similar emergency that causes the
8 delay.

9 (11) An applicant seeking to collocate small wireless
10 facilities within the jurisdiction of a single authority
11 shall be allowed, at the applicant's discretion, to file a
12 consolidated application and receive a single permit for
13 the collocation of up to 25 small wireless facilities if
14 the collocations each involve substantially the same type
15 of small wireless facility and substantially the same type
16 of structure. If an application includes multiple small
17 wireless facilities, the authority may remove small
18 wireless facility collocations from the application and
19 treat separately small wireless facility collocations for
20 which incomplete information has been provided or that do
21 not qualify for consolidated treatment or that are denied.
22 The authority may issue separate permits for each
23 collocation that is approved in a consolidated
24 application.

25 (12) Collocation for which a permit is granted shall
26 be completed within 180 days after issuance of the permit,

1 unless the authority and the wireless provider agree to
2 extend this period or a delay is caused by make-ready work
3 for an authority utility pole or by the lack of commercial
4 power or backhaul availability at the site, provided the
5 wireless provider has made a timely request within 60 days
6 after the issuance of the permit for commercial power or
7 backhaul services, and the additional time to complete
8 installation does not exceed 360 days after issuance of
9 the permit. Otherwise, the permit shall be void unless the
10 authority grants an extension in writing to the applicant.

11 (13) The duration of a permit shall be for a period of
12 not less than 5 years, and the permit shall be renewed for
13 equivalent durations unless the authority makes a finding
14 that the small wireless facilities or the new or modified
15 utility pole do not comply with the applicable codes or
16 local code provisions or regulations in paragraphs (6) and
17 (9). If this Act is repealed as provided in Section 90,
18 renewals of permits shall be subject to the applicable
19 authority code provisions or regulations in effect at the
20 time of renewal.

21 (14) An authority may not prohibit, either expressly
22 or de facto, the (i) filing, receiving, or processing
23 applications, or (ii) issuing of permits or other
24 approvals, if any, for the collocation of small wireless
25 facilities unless there has been a local, State, or
26 federal disaster declaration or similar emergency that

1 causes the delay.

2 (15) Applicants shall submit applications, supporting
3 information, and notices by personal delivery or as
4 otherwise required by the authority. An authority may
5 require that permits, supporting information, and notices
6 be submitted by personal delivery at the authority's
7 designated place of business, by regular mail postmarked
8 on the date due, or by any other commonly used means,
9 including electronic mail, as required by the authority.

10 (e) Application fees are subject to the following
11 requirements:

12 (1) An authority may charge an application fee of up
13 to \$650 for an application to collocate a single small
14 wireless facility on an existing utility pole or wireless
15 support structure and up to \$350 for each small wireless
16 facility addressed in an application to collocate more
17 than one small wireless facility on existing utility poles
18 or wireless support structures.

19 (2) An authority may charge an application fee of
20 \$1,000 for each small wireless facility addressed in an
21 application that includes the installation of a new
22 utility for such collocation.

23 (3) Notwithstanding any contrary provision of State
24 law or local ordinance, applications pursuant to this
25 Section must be accompanied by the required application
26 fee.

1 (4) Within 2 months after the effective date of this
2 Act, an authority shall make available application fees
3 consistent with this subsection, through ordinance, or in
4 a written schedule of permit fees adopted by the
5 authority.

6 (f) An authority shall not require an application,
7 approval, or permit, or require any fees or other charges,
8 from a communications service provider authorized to occupy
9 the rights-of-way, for: (i) routine maintenance; (ii) the
10 replacement of wireless facilities with wireless facilities
11 that are substantially similar, the same size, or smaller if
12 the wireless provider notifies the authority at least 10 days
13 prior to the planned replacement and includes equipment
14 specifications for the replacement of equipment consistent
15 with the requirements of subparagraph (D) of paragraph (2) of
16 subsection (d) of this Section; or (iii) the installation,
17 placement, maintenance, operation, or replacement of micro
18 wireless facilities that are suspended on cables that are
19 strung between existing utility poles in compliance with
20 applicable safety codes. However, an authority may require a
21 permit to work within rights-of-way for activities that affect
22 traffic patterns or require lane closures.

23 (g) Nothing in this Act authorizes a person to collocate
24 small wireless facilities on: (1) property owned by a private
25 party or property owned or controlled by a unit of local
26 government that is not located within rights-of-way, subject

1 to subsection (j) of this Section, or a privately owned
2 utility pole or wireless support structure without the consent
3 of the property owner; (2) property owned, leased, or
4 controlled by a park district, forest preserve district, or
5 conservation district for public park, recreation, or
6 conservation purposes without the consent of the affected
7 district, excluding the placement of facilities on
8 rights-of-way located in an affected district that are under
9 the jurisdiction and control of a different unit of local
10 government as provided by the Illinois Highway Code; or (3)
11 property owned by a rail carrier registered under Section
12 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or
13 any other public commuter rail service, or an electric utility
14 as defined in Section 16-102 of the Public Utilities Act,
15 without the consent of the rail carrier, public commuter rail
16 service, or electric utility. The provisions of this Act do
17 not apply to an electric or gas public utility or such
18 utility's wireless facilities if the facilities are being
19 used, developed, and maintained consistent with the provisions
20 of subsection (i) of Section 16-108.5 of the Public Utilities
21 Act.

22 For the purposes of this subsection, "public utility" has
23 the meaning given to that term in Section 3-105 of the Public
24 Utilities Act. Nothing in this Act shall be construed to
25 relieve any person from any requirement (1) to obtain a
26 franchise or a State-issued authorization to offer cable

1 service or video service or (2) to obtain any required
2 permission to install, place, maintain, or operate
3 communications facilities, other than small wireless
4 facilities subject to this Act.

5 (h) Agreements between authorities and wireless providers
6 that relate to the collocation of small wireless facilities in
7 the right-of-way, including the collocation of small wireless
8 facilities on authority utility poles, that are in effect on
9 the effective date of this Act remain in effect for all small
10 wireless facilities collocated on the authority's utility
11 poles pursuant to applications submitted to the authority
12 before the effective date of this Act, subject to applicable
13 termination provisions. Such agreements entered into after the
14 effective date of the Act shall comply with the Act.

15 (i) An authority shall allow the collocation of small
16 wireless facilities on authority utility poles subject to the
17 following:

18 (1) An authority may not enter into an exclusive
19 arrangement with any person for the right to attach small
20 wireless facilities to authority utility poles.

21 (2) The rates and fees for collocations on authority
22 utility poles shall be nondiscriminatory regardless of the
23 services provided by the collocating person.

24 (3) An authority may charge an annual recurring rate
25 to collocate a small wireless facility on an authority
26 utility pole located in a right-of-way that equals (i)

1 \$200 per year or (ii) the actual, direct, and reasonable
2 costs related to the wireless provider's use of space on
3 the authority utility pole. Rates for collocation on
4 authority utility poles located outside of a right-of-way
5 are not subject to these limitations. In any controversy
6 concerning the appropriateness of a cost-based rate for an
7 authority utility pole located within a right-of-way, the
8 authority shall have the burden of proving that the rate
9 does not exceed the actual, direct, and reasonable costs
10 for the applicant's proposed use of the authority utility
11 pole. Nothing in this paragraph (3) prohibits a wireless
12 provider and an authority from mutually agreeing to an
13 annual recurring rate of less than \$200 to collocate a
14 small wireless facility on an authority utility pole.

15 (4) Authorities or other persons owning or controlling
16 authority utility poles within the right-of-way shall
17 offer rates, fees, and other terms that comply with
18 subparagraphs (A) through (E) of this paragraph (4).
19 Within 2 months after the effective date of this Act, an
20 authority or a person owning or controlling authority
21 utility poles shall make available, through ordinance or
22 an authority utility pole attachment agreement, license or
23 other agreement that makes available to wireless
24 providers, the rates, fees, and terms for the collocation
25 of small wireless facilities on authority utility poles
26 that comply with this Act and with subparagraphs (A)

1 through (E) of this paragraph (4). In the absence of such
2 an ordinance or agreement that complies with this Act, and
3 until such a compliant ordinance or agreement is adopted,
4 wireless providers may collocate small wireless facilities
5 and install utility poles under the requirements of this
6 Act.

7 (A) The rates, fees, and terms must be
8 nondiscriminatory, competitively neutral, and
9 commercially reasonable, and may address, among other
10 requirements, the requirements in subparagraphs (A)
11 through (I) of paragraph (6) of subsection (d) of this
12 Section; subsections (e), (i), and (k) of this
13 Section; Section 30; and Section 35, and must comply
14 with this Act.

15 (B) For authority utility poles that support
16 aerial facilities used to provide communications
17 services or electric service, wireless providers shall
18 comply with the process for make-ready work under 47
19 U.S.C. 224 and its implementing regulations, and the
20 authority shall follow a substantially similar process
21 for make-ready work except to the extent that the
22 timing requirements are otherwise addressed in this
23 Act. The good-faith estimate of the person owning or
24 controlling the authority utility pole for any
25 make-ready work necessary to enable the pole to
26 support the requested collocation shall include

1 authority utility pole replacement, if necessary.

2 (C) For authority utility poles that do not
3 support aerial facilities used to provide
4 communications services or electric service, the
5 authority shall provide a good-faith estimate for any
6 make-ready work necessary to enable the authority
7 utility pole to support the requested collocation,
8 including pole replacement, if necessary, within 90
9 days after receipt of a complete application.
10 Make-ready work, including any authority utility pole
11 replacement, shall be completed within 60 days of
12 written acceptance of the good-faith estimate by the
13 applicant at the wireless provider's sole cost and
14 expense. Alternatively, if the authority determines
15 that applicable codes or public safety regulations
16 require the authority utility pole to be replaced to
17 support the requested collocation, the authority may
18 require the wireless provider to replace the authority
19 utility pole at the wireless provider's sole cost and
20 expense.

21 (D) The authority shall not require more
22 make-ready work than required to meet applicable codes
23 or industry standards. Make-ready work may include
24 work needed to accommodate additional public safety
25 communications needs that are identified in a
26 documented and approved plan for the deployment of

1 public safety equipment as specified in paragraph (1)
2 of subsection (d) of this Section and included in an
3 existing or preliminary authority or public service
4 agency budget for attachment within one year of the
5 application. Fees for make-ready work, including any
6 authority utility pole replacement, shall not exceed
7 actual costs or the amount charged to communications
8 service providers for similar work and shall not
9 include any consultants' fees or expenses for
10 authority utility poles that do not support aerial
11 facilities used to provide communications services or
12 electric service. Make-ready work, including any pole
13 replacement, shall be completed within 60 days of
14 written acceptance of the good-faith estimate by the
15 wireless provider, at its sole cost and expense.

16 (E) A wireless provider that has an existing
17 agreement with the authority on the effective date of
18 the Act may accept the rates, fees, and terms that an
19 authority makes available under this Act for the
20 collocation of small wireless facilities or the
21 installation of new utility poles for the collocation
22 of small wireless facilities that are the subject of
23 an application submitted 2 or more years after the
24 effective date of the Act as provided in this
25 paragraph (4) by notifying the authority that it opts
26 to accept such rates, fees, and terms. The existing

1 agreement remains in effect, subject to applicable
2 termination provisions, for the small wireless
3 facilities the wireless provider has collocated on the
4 authority's utility poles pursuant to applications
5 submitted to the authority before the wireless
6 provider provides such notice and exercises its option
7 under this subparagraph.

8 (j) An authority shall authorize the collocation of small
9 wireless facilities on utility poles owned or controlled by
10 the authority that are not located within rights-of-way to the
11 same extent the authority currently permits access to utility
12 poles for other commercial projects or uses. The collocations
13 shall be subject to reasonable and nondiscriminatory rates,
14 fees, and terms as provided in an agreement between the
15 authority and the wireless provider.

16 (k) Nothing in this Section precludes an authority from
17 adopting reasonable rules with respect to the removal of
18 abandoned small wireless facilities. A small wireless facility
19 that is not operated for a continuous period of 12 months shall
20 be considered abandoned and the owner of the facility must
21 remove the small wireless facility within 90 days after
22 receipt of written notice from the authority notifying the
23 owner of the abandonment. The notice shall be sent by
24 certified or registered mail, return receipt requested, by the
25 authority to the owner at the last known address of the owner.
26 If the small wireless facility is not removed within 90 days of

1 such notice, the authority may remove or cause the removal of
2 the facility pursuant to the terms of its pole attachment
3 agreement for authority utility poles or through whatever
4 actions are provided for abatement of nuisances or by other
5 law for removal and cost recovery. An authority may require a
6 wireless provider to provide written notice to the authority
7 if it sells or transfers small wireless facilities subject to
8 this Act within the jurisdictional boundary of the authority.
9 Such notice shall include the name and contact information of
10 the new wireless provider.

11 (1) Nothing in this Section requires an authority to
12 install or maintain any specific utility pole or to continue
13 to install or maintain utility poles in any location if the
14 authority makes a non-discriminatory decision to eliminate
15 above-ground utility poles of a particular type generally,
16 such as electric utility poles, in all or a significant
17 portion of its geographic jurisdiction. For authority utility
18 poles with collocated small wireless facilities in place when
19 an authority makes a decision to eliminate above-ground
20 utility poles of a particular type generally, the authority
21 shall either (i) continue to maintain the authority utility
22 pole or install and maintain a reasonable alternative utility
23 pole or wireless support structure for the collocation of the
24 small wireless facility, or (ii) offer to sell the utility
25 pole to the wireless provider at a reasonable cost or allow the
26 wireless provider to install its own utility pole so it can

1 maintain service from that location.

2 (Source: P.A. 102-9, eff. 6-3-21.)

3 (50 ILCS 840/20) (was 50 ILCS 835/20)

4 Sec. 20. Local authority. Subject to this Act and
5 applicable federal law, an authority may continue to exercise
6 zoning, land use, planning, and permitting authority within
7 its territorial boundaries, including with respect to wireless
8 support structures and utility poles; except that no authority
9 shall have or exercise any jurisdiction or authority over the
10 design, engineering, construction, installation, or operation
11 of any small wireless facility located in an interior
12 structure or upon the site of any campus, stadium, or athletic
13 facility not otherwise owned or controlled by the authority,
14 other than to comply with applicable codes and local code
15 provisions concerning public safety. Nothing in this Act
16 authorizes the State or any political subdivision, including
17 an authority, to require wireless facility deployment or to
18 regulate wireless services.

19 (Source: P.A. 100-585, eff. 6-1-18.)

20 (50 ILCS 840/25) (was 50 ILCS 835/25)

21 Sec. 25. Dispute resolution. A circuit court has
22 jurisdiction to resolve all disputes arising under this Act.
23 Pending resolution of a dispute concerning rates for
24 collocation of small wireless facilities on authority utility

1 poles within the right-of-way, the authority shall allow the
2 collocating person to collocate on its poles at annual rates
3 of no more than \$200 per year per authority utility pole, with
4 rates to be determined upon final resolution of the dispute.
5 (Source: P.A. 100-585, eff. 6-1-18.)

6 (50 ILCS 840/30) (was 50 ILCS 835/30)

7 Sec. 30. Indemnification. A wireless provider shall
8 indemnify and hold an authority harmless against any and all
9 liability or loss from personal injury or property damage
10 resulting from or arising out of, in whole or in part, the use
11 or occupancy of the authority improvements or right-of-way
12 associated with such improvements by the wireless provider or
13 its employees, agents, or contractors arising out of the
14 rights and privileges granted under this Act. A wireless
15 provider has no obligation to indemnify or hold harmless
16 against any liabilities and losses as may be due to or caused
17 by the sole negligence of the authority or its employees or
18 agents. A wireless provider shall further waive any claims
19 that they may have against an authority with respect to
20 consequential, incidental, or special damages, however caused,
21 based on the theory of liability.

22 (Source: P.A. 100-585, eff. 6-1-18.)

23 (50 ILCS 840/35) (was 50 ILCS 835/35)

24 Sec. 35. Insurance.

1 (a) Except for a wireless provider with an existing
2 franchise to occupy and operate in the rights-of-way, during
3 the period in which the wireless provider's facilities are
4 located on the authority improvements or rights-of-way, the
5 authority may require the wireless provider to carry, at the
6 wireless provider's own cost and expense, the following
7 insurance: (i) property insurance for its property's
8 replacement cost against all risks; (ii) workers' compensation
9 insurance, as required by law; or (iii) commercial general
10 liability insurance with respect to its activities on the
11 authority improvements or rights-of-way to afford minimum
12 protection limits consistent with its requirements of other
13 users of authority improvements or rights-of-way, including
14 coverage for bodily injury and property damage. An authority
15 may require a wireless provider to include the authority as an
16 additional insured on the commercial general liability policy
17 and provide certification and documentation of inclusion of
18 the authority in a commercial general liability policy as
19 reasonably required by the authority.

20 (b) A wireless provider may self-insure all or a portion
21 of the insurance coverage and limit requirements required by
22 an authority. A wireless provider that self-insures is not
23 required, to the extent of the self-insurance, to comply with
24 the requirement for the naming of additional insureds under
25 this Section. A wireless provider that elects to self-insure
26 shall provide to the authority evidence sufficient to

1 demonstrate its financial ability to self-insure the insurance
2 coverage and limits required by the authority.

3 (Source: P.A. 100-585, eff. 6-1-18.)

4 (50 ILCS 840/40) (was 50 ILCS 835/40)

5 Sec. 40. Home rule. A home rule unit may not regulate small
6 wireless facilities in a manner inconsistent with this Act.
7 This Section is a limitation under subsection (i) of Section 6
8 of Article VII of the Illinois Constitution on the concurrent
9 exercise by home rule units of powers and functions exercised
10 by the State.

11 (Source: P.A. 100-585, eff. 6-1-18.)

12 (50 ILCS 840/45)

13 Sec. 45. Continuation of Act; validation.

14 (a) The General Assembly finds and declares that Public
15 Act 102-9 and this amendatory Act of the 102nd General
16 Assembly manifest ~~this amendatory Act of the 102nd General~~
17 ~~Assembly manifests~~ the intention of the General Assembly to
18 extend the repeal of this Act and have this Act continue in
19 effect until December 31, 2024.

20 (b) This Act is ~~Section shall be~~ deemed to have been in
21 continuous effect since June 1, 2021 and it shall continue to
22 be in effect ~~henceforward~~ until it is ~~otherwise~~ lawfully
23 repealed. The changes made to this Act by Public Act 102-9 ~~All~~
24 ~~previously enacted amendments to this Act taking effect on or~~

1 ~~after June 1, 2021,~~ are hereby validated. All actions taken in
2 reliance on or under this Act by any person or entity are
3 hereby validated.

4 (c) Public Act 102-9 was intended to reenact this Act, but
5 it did not set forth this Act in full. To ensure the continuing
6 effectiveness of this Act, this Act is set forth in full and
7 reenacted by this amendatory Act of the 102nd General
8 Assembly. ~~In order to ensure the continuing effectiveness of~~
9 ~~this Act, it is set forth in full and reenacted by this~~
10 ~~amendatory Act of the 102nd General Assembly.~~ Striking and
11 underscoring are used only to show changes being made to the
12 base text. This reenactment is intended as a continuation of
13 this Act. This reenactment is not intended to supersede any
14 amendment to this Act that may be made by any other Public Act
15 of the 102nd General Assembly. ~~This reenactment is intended as~~
16 ~~a continuation of this Act. It is not intended to supersede any~~
17 ~~amendment to this Act that is enacted by the 102nd General~~
18 ~~Assembly.~~

19 (Source: P.A. 102-9, eff. 6-3-21.)

20 (50 ILCS 840/90) (was 50 ILCS 835/90)

21 Sec. 90. Repeal. This Act is repealed on December 31,
22 2024.

23 (Source: P.A. 102-9, eff. 6-3-21.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.