

1 AN ACT concerning local government.

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

4 Section 1. Short title. This Act may be cited as the
5 Prepaid Wireless 9-1-1 Surcharge Act.

6 Section 5. Purpose. The General Assembly finds and declares
7 that maintaining effective and efficient 9-1-1 systems across
8 the State benefits all citizens. The fees imposed upon the
9 consumers of telecommunication services that have the ability
10 to dial 9-1-1 are an important funding mechanism to assist the
11 State and units of local government with the deployment of
12 enhanced 9-1-1 services to the citizens of this State.

13 Prepaid wireless telecommunication services are an
14 important segment of the telecommunications industry and have
15 proven particularly attractive to low-income and low-volume
16 consumers. Unlike traditional telecommunication services,
17 prepaid wireless telecommunications services are not sold or
18 used pursuant to term contracts or subscriptions and monthly
19 bills are not sent to consumers by prepaid wireless
20 telecommunication service providers or retail vendors.

21 Prepaid wireless consumers have the same access to
22 emergency 9-1-1 services from their wireless devices as
23 wireless consumers on term contracts. Prepaid wireless

1 consumers benefit from the ability to access the 9-1-1 system
2 by dialing 9-1-1.

3 Consumers purchase prepaid wireless telecommunication
4 services at a wide variety of general retail locations and
5 other distribution channels. Such purchases are made on a
6 cash-and-carry or pay-as-you-go basis from retailers.

7 It is the intent of the General Assembly to:

8 (1) ensure equitable contributions to the funding of
9 9-1-1 systems from consumers of prepaid wireless
10 telecommunication services;

11 (2) collect 9-1-1 surcharges from purchasers of
12 prepaid wireless telecommunications services at the point
13 of sale;

14 (3) impose the collection and remittance obligation
15 for 9-1-1 surcharges on sellers of prepaid wireless
16 telecommunications services;

17 (4) impose a statewide administered 9-1-1 surcharge on
18 point of sale transactions in order to minimize
19 administrative costs on retailers.

20 Section 10. Definitions. In this Act:

21 "Consumer" means a person who purchases prepaid wireless
22 telecommunications service in a retail transaction.

23 "Department" means the Department of Revenue.

24 "Prepaid wireless E911 surcharge" means the charge that is
25 required to be collected by a seller from a consumer in the

1 amount established under Section 15 of this Act.

2 "Prepaid wireless telecommunications service" means a
3 wireless telecommunications service that allows a caller to
4 dial 9-1-1 to access the 9-1-1 system, which service must be
5 paid for in advance and is sold in predetermined units or
6 dollars of which the amount declines with use in a known
7 amount.

8 "Provider" means a person that provides prepaid wireless
9 telecommunications service pursuant to a license issued by the
10 Federal Communications Commission.

11 "Retail transaction" means the purchase of prepaid
12 wireless telecommunications service from a seller for any
13 purpose other than resale.

14 "Seller" means a person who sells prepaid wireless
15 telecommunications service to another person.

16 "Wireless telecommunications service" means commercial
17 mobile radio service as defined by 47 C.F.R. 20.3.

18 Section 15. Prepaid wireless 9-1-1 surcharge.

19 (a) There is hereby imposed on consumers a prepaid wireless
20 9-1-1 surcharge of 1.5% per retail transaction. The surcharge
21 authorized by this subsection (a) does not apply in a home rule
22 municipality having a population in excess of 500,000. The
23 amount of the surcharge may be reduced or increased pursuant to
24 subsection (e).

25 (a-5) A home rule municipality having a population in

1 excess of 500,000 on the effective date of this Act may only
2 impose a prepaid wireless 9-1-1 surcharge not to exceed 7% per
3 retail transaction sourced to that jurisdiction and collected
4 and remitted in accordance with the provisions of subsection
5 (b-5).

6 (b) The prepaid wireless 9-1-1 surcharge shall be collected
7 by the seller from the consumer with respect to each retail
8 transaction occurring in this State and shall be remitted to
9 the Department by the seller as provided in this Act. The
10 amount of the prepaid wireless 9-1-1 surcharge shall be
11 separately stated as a distinct item apart from the charge for
12 the prepaid wireless telecommunications service on an invoice,
13 receipt, or other similar document that is provided to the
14 consumer by the seller or shall be otherwise disclosed to the
15 consumer. If the seller does not separately state the surcharge
16 as a distinct item to the consumer as provided in this Section,
17 then the seller shall maintain books and records as required by
18 this Act which clearly identify the amount of the 9-1-1
19 surcharge for retail transactions.

20 For purposes of this subsection (b), a retail transaction
21 occurs in this State if (i) the retail transaction is made in
22 person by a consumer at the seller's business location and the
23 business is located within the State; (ii) the seller is a
24 provider and sells prepaid wireless telecommunications service
25 to a consumer located in Illinois; (iii) the retail transaction
26 is treated as occurring in this State for purposes of the

1 Retailers' Occupation Tax Act; or (iv) a seller that is
2 included within the definition of a "retailer maintaining a
3 place of business in this State" under Section 2 of the Use Tax
4 Act makes a sale of prepaid wireless telecommunications service
5 to a consumer located in Illinois. In the case of a retail
6 transaction which does not occur in person at a seller's
7 business location, if a consumer uses a credit card to purchase
8 prepaid wireless telecommunications service on-line or over
9 the telephone, and no product is shipped to the consumer, the
10 transaction occurs in this State if the billing address for the
11 consumer's credit card is in this State.

12 (b-5) The prepaid wireless 9-1-1 surcharge imposed under
13 subsection (a-5) of this Section shall be collected by the
14 seller from the consumer with respect to each retail
15 transaction occurring in the municipality imposing the
16 surcharge. The amount of the prepaid wireless 9-1-1 surcharge
17 shall be separately stated on an invoice, receipt, or other
18 similar document that is provided to the consumer by the seller
19 or shall be otherwise disclosed to the consumer. If the seller
20 does not separately state the surcharge as a distinct item to
21 the consumer as provided in this Section, then the seller shall
22 maintain books and records as required by this Act which
23 clearly identify the amount of the 9-1-1 surcharge for retail
24 transactions.

25 For purposes of this subsection (b-5), a retail transaction
26 occurs in the municipality if (i) the retail transaction is

1 made in person by a consumer at the seller's business location
2 and the business is located within the municipality; (ii) the
3 seller is a provider and sells prepaid wireless
4 telecommunications service to a consumer located in the
5 municipality; (iii) the retail transaction is treated as
6 occurring in the municipality for purposes of the Retailers'
7 Occupation Tax Act; or (iv) a seller that is included within
8 the definition of a "retailer maintaining a place of business
9 in this State" under Section 2 of the Use Tax Act makes a sale
10 of prepaid wireless telecommunications service to a consumer
11 located in the municipality. In the case of a retail
12 transaction which does not occur in person at a seller's
13 business location, if a consumer uses a credit card to purchase
14 prepaid wireless telecommunications service on-line or over
15 the telephone, and no product is shipped to the consumer, the
16 transaction occurs in the municipality if the billing address
17 for the consumer's credit card is in the municipality.

18 (c) The prepaid wireless 9-1-1 surcharge is imposed on the
19 consumer and not on any provider. The seller shall be liable to
20 remit all prepaid wireless 9-1-1 surcharges that the seller
21 collects from consumers as provided in Section 20, including
22 all such surcharges that the seller is deemed to collect where
23 the amount of the surcharge has not been separately stated on
24 an invoice, receipt, or other similar document provided to the
25 consumer by the seller. The surcharge collected or deemed
26 collected by a seller shall constitute a debt owed by the

1 seller to this State, and any such surcharge actually collected
2 shall be held in trust for the benefit of the Department.

3 For purposes of this subsection (c), the surcharge shall
4 not be imposed or collected from entities that are tax exempt
5 under the Retailers' Occupation Tax Act.

6 (d) The amount of the prepaid wireless 9-1-1 surcharge that
7 is collected by a seller from a consumer, if such amount is
8 separately stated on an invoice, receipt, or other similar
9 document provided to the consumer by the seller, shall not be
10 included in the base for measuring any tax, fee, surcharge, or
11 other charge that is imposed by this State, any political
12 subdivision of this State, or any intergovernmental agency.

13 (e) The prepaid wireless 9-1-1 charge imposed under
14 subsection (a) of this Section shall be proportionately
15 increased or reduced, as applicable, upon any change to the
16 surcharge imposed under Section 17 of the Wireless Emergency
17 Telephone Safety Act. The adjusted rate shall be determined by
18 dividing the amount of the surcharge imposed under Section 17
19 of the Wireless Emergency Telephone Safety Act by \$50. Such
20 increase or reduction shall be effective on the first day of
21 the first calendar month to occur at least 60 days after the
22 enactment of the change to the surcharge imposed under Section
23 17 of the Wireless Emergency Telephone Safety Act. The
24 Department shall provide not less than 30 days' notice of an
25 increase or reduction in the amount of the surcharge on the
26 Department's website.

1 (e-5) Any changes in the rate of the surcharge imposed by a
2 municipality under the authority granted in subsection (a-5) of
3 this Section shall be effective on the first day of the first
4 calendar month to occur at least 60 days after the enactment of
5 the change. The Department shall provide not less than 30 days'
6 notice of the increase or reduction in the rate of such
7 surcharge on the Department's website.

8 (f) When prepaid wireless telecommunications service is
9 sold with one or more other products or services for a single,
10 non-itemized price, then the percentage specified in
11 subsection (a) or (a-5) of this Section 15 shall be applied to
12 the entire non-itemized price unless the seller elects to apply
13 the percentage to (i) the dollar amount of the prepaid wireless
14 telecommunications service if that dollar amount is disclosed
15 to the consumer or (ii) the portion of the price that is
16 attributable to the prepaid wireless telecommunications
17 service if the retailer can identify that portion by reasonable
18 and verifiable standards from its books and records that are
19 kept in the regular course of business for other purposes,
20 including, but not limited to, books and records that are kept
21 for non-tax purposes. However, if a minimal amount of prepaid
22 wireless telecommunications service is sold with a prepaid
23 wireless device for a single, non-itemized price, then the
24 seller may elect not to apply the percentage specified in
25 subsection (a) or (a-5) of this Section 15 to such transaction.
26 For purposes of this subsection, an amount of service

1 denominated as 10 minutes or less or \$5 or less is considered
2 minimal.

3 Section 20. Administration of prepaid wireless 9-1-1
4 surcharge.

5 (a) In the administration and enforcement of this Act, the
6 provisions of Sections 2a, 2b, 2c, 3, 4, 5, 5a, 5b, 5c, 5d, 5e,
7 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, and 12 of the
8 Retailers' Occupation Tax Act that are not inconsistent with
9 this Act, and Section 3-7 of the Uniform Penalty and Interest
10 Act shall apply, as far as practicable, to the subject matter
11 of this Act to the same extent as if those provisions were
12 included in this Act. References to "taxes" in these
13 incorporated Sections shall be construed to apply to the
14 administration, payment, and remittance of all surcharges
15 under this Act. The Department shall establish registration and
16 payment procedures that substantially coincide with the
17 registration and payment procedures that apply to the
18 Retailers' Occupation Tax Act.

19 (b) For the first 12 months after the effective date of
20 this Act, a seller shall be permitted to deduct and retain 5%
21 of prepaid wireless 9-1-1 surcharges that are collected by the
22 seller from consumers and that are remitted and timely filed
23 with the Department. After the first 12 months, a seller shall
24 be permitted to deduct and retain 3% of prepaid wireless 9-1-1
25 surcharges that are collected by the seller from consumers and

1 that are remitted and timely filed with the Department.

2 (c) The Department shall pay all remitted prepaid wireless
3 E911 charges over to the State Treasurer for deposit into the
4 Wireless Service Emergency Fund within 30 days after receipt.
5 The Illinois Commerce Commission shall distribute such funds in
6 the same proportion as they are distributed under the Wireless
7 Emergency Telephone Safety Act and such funds may only be used
8 in accordance with the provisions of the Wireless Emergency
9 Telephone Safety Act. The Department may deduct an amount, not
10 to exceed 3% during the first year following the effective date
11 of this Act and not to exceed 2% during every year thereafter
12 of remitted charges, to be retained by the Department to
13 reimburse its direct costs of administering the collection and
14 remittance of prepaid wireless 9-1-1 surcharges.

15 (d) The Department shall administer the collection of all
16 9-1-1 surcharges and may adopt and enforce reasonable rules
17 relating to the administration and enforcement of the
18 provisions of this Act as may be deemed expedient. The
19 Department shall require all surcharges collected under this
20 Act to be reported on existing forms or combined forms,
21 including, but not limited to, Form ST-1.

22 Section 25. Liability of sellers and providers. The
23 provisions of Section 50 of the Wireless Emergency Telephone
24 Safety Act shall apply to sellers and providers of prepaid
25 wireless telecommunications service.

1 Section 27. Home rule. A home rule unit may not impose a
2 separate surcharge on wireless 9-1-1 service in addition to the
3 surcharge imposed on wireless 9-1-1 service under this Act.
4 This Section is a denial and limitation of home rule powers and
5 functions under subsection (h) of Section 6 of Article VII of
6 the Illinois Constitution.

7 Section 30. Exclusivity of prepaid wireless 9-1-1
8 surcharge. The prepaid wireless 9-1-1 surcharge imposed by this
9 Act shall be the only 9-1-1 funding obligation imposed with
10 respect to prepaid wireless telecommunications service in this
11 State. No tax, fee, surcharge, or other charge shall be imposed
12 by this State, any political subdivision of this State, or any
13 intergovernmental agency, for 9-1-1 funding purposes, upon any
14 provider, seller, or consumer with respect to the sale,
15 purchase, use, or provision of prepaid wireless
16 telecommunications service.

17 Section 90. The Emergency Telephone System Act is amended
18 by changing Section 15.3 and by adding Sections 2.24, 2.25, and
19 2.26 as follows:

20 (50 ILCS 750/2.24 new)

21 Sec. 2.24. Advanced service. "Advanced service" means any
22 telecommunications service with dynamic bandwidth allocation,

1 including but not limited to ISDN Primary Rate Interface (PRI),
2 that, through the use of a DS-1, T-1, or similar un-channelized
3 or multi-channel transmission facility, is capable of
4 transporting either the subscriber's inter-premises voice
5 telecommunications services to the public switched network or
6 the subscriber's 9-1-1 calls to the public agency. As used in
7 this Section, "dynamic bandwidth allocation" means the ability
8 of the facility or customer to drop and add channels, or adjust
9 bandwidth, when needed in real time for voice or data purposes.
10 As used in this Section, "DS-1, T-1, or similar un-channelized
11 or multi-channel transmission facility" means a facility that
12 can transmit and receive a bit rate of at least 1.544 megabits
13 per second (Mbps).

14 (50 ILCS 750/2.25 new)

15 Sec. 2.25. Regular service. "Regular service" means any
16 telecommunications service, other than advanced service, that
17 is capable of transporting either the subscriber's
18 inter-premises voice telecommunications services to the public
19 switched network or the subscriber's 9-1-1 calls to the public
20 agency.

21 (50 ILCS 750/2.26 new)

22 Sec. 2.26. Trunk line. "Trunk line" means a transmission
23 path, or group of transmission paths, connecting a subscriber's
24 Private Branch Exchange ("P.B.X.") to a telecommunications

1 carrier's public switched network. In the case of regular
2 service, each voice grade communications channel or equivalent
3 amount of bandwidth capable of transporting either the
4 subscriber's inter-premises voice telecommunications services
5 to the public switched network or the subscriber's 9-1-1 calls
6 to the public agency shall be considered a trunk line, even if
7 it is bundled with other channels or additional bandwidth. In
8 the case of advanced service, each DS-1, T-1, or similar
9 un-channelized or multi-channel transmission facility that is
10 capable of transporting either the subscriber's inter-premises
11 voice telecommunications services to the public switched
12 network or the subscriber's 9-1-1 calls to the public agency
13 shall be considered a single trunk line, even if it contains
14 multiple voice grade communications channels or otherwise
15 supports 2 or more voice grade calls ("VGC") at a time;
16 provided, however, that each additional 1.544 Mbps of
17 transmission capacity that is capable of transporting either
18 the subscriber's inter-premises voice telecommunications
19 services to the public switched network or the subscriber's
20 9-1-1 calls to the public agency shall be considered an
21 additional trunk line.

22 (50 ILCS 750/15.3) (from Ch. 134, par. 45.3)

23 Sec. 15.3. Surcharge.

24 (a) The corporate authorities of any municipality or any
25 county may, subject to the limitations of subsections (c), (d),

1 and (h), and in addition to any tax levied pursuant to the
2 Simplified Municipal Telecommunications Tax Act, impose a
3 monthly surcharge on billed subscribers of network connection
4 provided by telecommunication carriers engaged in the business
5 of transmitting messages by means of electricity originating
6 within the corporate limits of the municipality or county
7 imposing the surcharge at a rate per network connection
8 determined in accordance with subsection (c), however the
9 monthly surcharge shall not apply to a network connection
10 provided for use with pay telephone services. Provided,
11 however, that where multiple voice grade communications
12 channels are connected between the subscriber's premises and a
13 public switched network through private branch exchange (PBX)
14 or centrex type service, a municipality imposing a surcharge at
15 a rate per network connection, as determined in accordance with
16 this Act, shall impose:

17 (i) in a municipality with a population of 500,000 or less
18 or in any county, 5 such surcharges per network connection, as
19 determined in accordance with subsections (a) and (d) of
20 Section 2.12 of this Act, for both regular service and advanced
21 service provisioned trunk lines;

22 (ii) in a municipality with a population, prior to March 1,
23 2010, of 500,000 or more, 5 surcharges per network connection,
24 as determined in accordance with subsections (a) and (d) of
25 Section 2.12 of this Act, for both regular service and advanced
26 service provisioned trunk lines;

1 (iii) in a municipality with a population, as of March 1,
2 2010, of 500,000 or more, 5 surcharges per network connection,
3 as determined in accordance with subsections (a) and (d) of
4 Section 2.12 of this Act, for regular service provisioned trunk
5 lines, and 12 surcharges per network connection, as determined
6 in accordance with subsections (a) and (d) of Section 2.12 of
7 this Act, for advanced service provisioned trunk lines, except
8 where an advanced service provisioned trunk line supports at
9 least 2 but fewer than 23 simultaneous voice grade calls
10 ("VGC's"), a telecommunication carrier may elect to impose
11 fewer than 12 surcharges per trunk line as provided in
12 subsection (iv) of this Section; or

13 (iv) for an advanced service provisioned trunk line
14 connected between the subscriber's premises and the public
15 switched network through a P.B.X., where the advanced service
16 provisioned trunk line is capable of transporting at least 2
17 but fewer than 23 simultaneous VGC's per trunk line, the
18 telecommunications carrier collecting the surcharge may elect
19 to impose surcharges in accordance with the table provided in
20 this Section, without limiting any telecommunications
21 carrier's obligations to otherwise keep and maintain records.
22 Any telecommunications carrier electing to impose fewer than 12
23 surcharges per an advanced service provisioned trunk line shall
24 keep and maintain records adequately to demonstrate the VGC
25 capability of each advanced service provisioned trunk line with
26 fewer than 12 surcharges imposed, provided that 12 surcharges

1 shall be imposed on an advanced service provisioned trunk line
 2 regardless of the VGC capability where a telecommunications
 3 carrier cannot demonstrate the VGC capability of the advanced
 4 service provisioned trunk line.

	<u>Facility</u>	<u>VGC's</u>	<u>911 Surcharges</u>
5			
6	<u>Advanced service provisioned trunk line</u>	<u>18-23</u>	<u>12</u>
7	<u>Advanced service provisioned trunk line</u>	<u>12-17</u>	<u>10</u>
8	<u>Advanced service provisioned trunk line</u>	<u>2-11</u>	<u>8</u>

9 Subsections (i), (ii), (iii), and (iv) are not intended to
 10 make any change in the meaning of this Section, but are
 11 intended to remove possible ambiguity, thereby confirming the
 12 intent of paragraph (a) as it existed prior to and following
 13 the effective date of this amendatory Act of the 97th General
 14 Assembly.

15 For mobile telecommunications services, if a surcharge is
 16 imposed it shall be imposed based upon the municipality or
 17 county that encompasses the customer's place of primary use as
 18 defined in the Mobile Telecommunications Sourcing Conformity
 19 Act. A municipality may enter into an intergovernmental
 20 agreement with any county in which it is partially located,
 21 when the county has adopted an ordinance to impose a surcharge
 22 as provided in subsection (c), to include that portion of the
 23 municipality lying outside the county in that county's
 24 surcharge referendum. If the county's surcharge referendum is

1 approved, the portion of the municipality identified in the
2 intergovernmental agreement shall automatically be
3 disconnected from the county in which it lies and connected to
4 the county which approved the referendum for purposes of a
5 surcharge on telecommunications carriers.

6 (b) For purposes of computing the surcharge imposed by
7 subsection (a), the network connections to which the surcharge
8 shall apply shall be those in-service network connections,
9 other than those network connections assigned to the
10 municipality or county, where the service address for each such
11 network connection or connections is located within the
12 corporate limits of the municipality or county levying the
13 surcharge. Except for mobile telecommunication services, the
14 "service address" shall mean the location of the primary use of
15 the network connection or connections. For mobile
16 telecommunication services, "service address" means the
17 customer's place of primary use as defined in the Mobile
18 Telecommunications Sourcing Conformity Act.

19 (c) Upon the passage of an ordinance to impose a surcharge
20 under this Section the clerk of the municipality or county
21 shall certify the question of whether the surcharge may be
22 imposed to the proper election authority who shall submit the
23 public question to the electors of the municipality or county
24 in accordance with the general election law; provided that such
25 question shall not be submitted at a consolidated primary
26 election. The public question shall be in substantially the

1 following form:

2 -----

3 Shall the county (or city, village
4 or incorporated town) of impose YES
5 a surcharge of up to ...¢ per month per
6 network connection, which surcharge will
7 be added to the monthly bill you receive -----
8 for telephone or telecommunications
9 charges, for the purpose of installing
10 (or improving) a 9-1-1 Emergency NO
11 Telephone System?

12 -----

13 If a majority of the votes cast upon the public question
14 are in favor thereof, the surcharge shall be imposed.

15 However, if a Joint Emergency Telephone System Board is to
16 be created pursuant to an intergovernmental agreement under
17 Section 15.4, the ordinance to impose the surcharge shall be
18 subject to the approval of a majority of the total number of
19 votes cast upon the public question by the electors of all of
20 the municipalities or counties, or combination thereof, that
21 are parties to the intergovernmental agreement.

22 The referendum requirement of this subsection (c) shall not
23 apply to any municipality with a population over 500,000 or to
24 any county in which a proposition as to whether a sophisticated
25 9-1-1 Emergency Telephone System should be installed in the
26 county, at a cost not to exceed a specified monthly amount per

1 network connection, has previously been approved by a majority
2 of the electors of the county voting on the proposition at an
3 election conducted before the effective date of this amendatory
4 Act of 1987.

5 (d) A county may not impose a surcharge, unless requested
6 by a municipality, in any incorporated area which has
7 previously approved a surcharge as provided in subsection (c)
8 or in any incorporated area where the corporate authorities of
9 the municipality have previously entered into a binding
10 contract or letter of intent with a telecommunications carrier
11 to provide sophisticated 9-1-1 service through municipal
12 funds.

13 (e) A municipality or county may at any time by ordinance
14 change the rate of the surcharge imposed under this Section if
15 the new rate does not exceed the rate specified in the
16 referendum held pursuant to subsection (c).

17 (f) The surcharge authorized by this Section shall be
18 collected from the subscriber by the telecommunications
19 carrier providing the subscriber the network connection as a
20 separately stated item on the subscriber's bill.

21 (g) The amount of surcharge collected by the
22 telecommunications carrier shall be paid to the particular
23 municipality or county or Joint Emergency Telephone System
24 Board not later than 30 days after the surcharge is collected,
25 net of any network or other 9-1-1 or sophisticated 9-1-1 system
26 charges then due the particular telecommunications carrier, as

1 shown on an itemized bill. The telecommunications carrier
2 collecting the surcharge shall also be entitled to deduct 3% of
3 the gross amount of surcharge collected to reimburse the
4 telecommunications carrier for the expense of accounting and
5 collecting the surcharge.

6 (h) Except as expressly provided in subsection (a) of this
7 Section, a municipality with a population over 500,000 may not
8 impose a monthly surcharge in excess of \$2.50 per network
9 connection.

10 (i) Any municipality or county or joint emergency telephone
11 system board that has imposed a surcharge pursuant to this
12 Section prior to the effective date of this amendatory Act of
13 1990 shall hereafter impose the surcharge in accordance with
14 subsection (b) of this Section.

15 (j) The corporate authorities of any municipality or county
16 may issue, in accordance with Illinois law, bonds, notes or
17 other obligations secured in whole or in part by the proceeds
18 of the surcharge described in this Section. Notwithstanding any
19 change in law subsequent to the issuance of any bonds, notes or
20 other obligations secured by the surcharge, every municipality
21 or county issuing such bonds, notes or other obligations shall
22 be authorized to impose the surcharge as though the laws
23 relating to the imposition of the surcharge in effect at the
24 time of issuance of the bonds, notes or other obligations were
25 in full force and effect until the bonds, notes or other
26 obligations are paid in full. The State of Illinois pledges and

1 agrees that it will not limit or alter the rights and powers
2 vested in municipalities and counties by this Section to impose
3 the surcharge so as to impair the terms of or affect the
4 security for bonds, notes or other obligations secured in whole
5 or in part with the proceeds of the surcharge described in this
6 Section.

7 (k) Any surcharge collected by or imposed on a
8 telecommunications carrier pursuant to this Section shall be
9 held to be a special fund in trust for the municipality, county
10 or Joint Emergency Telephone Board imposing the surcharge.
11 Except for the 3% deduction provided in subsection (g) above,
12 the special fund shall not be subject to the claims of
13 creditors of the telecommunication carrier.

14 (Source: P.A. 95-331, eff. 8-21-07; 95-698, eff. 1-1-08;
15 95-1012, eff. 12-15-08.)

16 Section 95. The Wireless Emergency Telephone Safety Act is
17 amended by changing Sections 10 and 17 and by adding Section 80
18 as follows:

19 (50 ILCS 751/10)

20 (Section scheduled to be repealed on April 1, 2013)

21 Sec. 10. Definitions. In this Act:

22 ~~"Active prepaid wireless telephone" means a prepaid~~
23 ~~wireless telephone that has been used or activated by the~~
24 ~~customer during the month to complete a telephone call for~~

1 ~~which the customer's card or account was decremented.~~

2 "Emergency telephone system board" means a board appointed
3 by the corporate authorities of any county or municipality that
4 provides for the management and operation of a 9-1-1 system
5 within the scope of the duties and powers prescribed by the
6 Emergency Telephone System Act.

7 "Master street address guide" means the computerized
8 geographical database that consists of all street and address
9 data within a 9-1-1 system.

10 "Mobile telephone number" or "MTN" shall mean the telephone
11 number assigned to a wireless telephone at the time of initial
12 activation.

13 "Prepaid wireless telecommunications ~~telephone~~ service"
14 means wireless telecommunications ~~telephone~~ service that
15 allows a caller to dial 9-1-1 to access the 9-1-1 system, which
16 service must be paid for in advance and is sold in
17 predetermined units or dollars which the amount declines with
18 use in a known amount. ~~which is activated by payment in advance~~
19 ~~of a finite dollar amount or for a finite set of minutes and~~
20 ~~which, unless an additional finite dollar amount or finite set~~
21 ~~of minutes is paid in advance, terminates either (i) upon use~~
22 ~~by a customer and delivery by the wireless carrier of an~~
23 ~~agreed upon amount of service corresponding to the total dollar~~
24 ~~amount paid in advance, or within a certain period of time~~
25 ~~following initial purchase or activation.~~

26 "Public safety agency" means a functional division of a

1 public agency that provides fire fighting, police, medical, or
2 other emergency services. For the purpose of providing wireless
3 service to users of 9-1-1 emergency services, as expressly
4 provided for in this Act, the Department of State Police may be
5 considered a public safety agency.

6 "Qualified governmental entity" means a unit of local
7 government authorized to provide 9-1-1 services pursuant to the
8 Emergency Telephone System Act where no emergency telephone
9 system board exists.

10 "Remit period" means the billing period, one month in
11 duration, for which a wireless carrier, ~~other than a prepaid~~
12 ~~wireless carrier that provides zip code information based upon~~
13 ~~the addresses associated with its customers' points of~~
14 ~~purchase, customers' billing addresses, or locations~~
15 ~~associated with MTNs, as described in subsection (a) of Section~~
16 ~~17,~~ remits a surcharge and provides subscriber information by
17 zip code to the Illinois Commerce Commission, in accordance
18 with Section 17 of this Act.

19 "Statewide wireless emergency 9-1-1 system" means all
20 areas of the State where an emergency telephone system board
21 or, in the absence of an emergency telephone system board, a
22 qualified governmental entity has not declared its intention
23 for one or more of its public safety answering points to serve
24 as a primary wireless 9-1-1 public safety answering point for
25 its jurisdiction. The operator of the statewide wireless
26 emergency 9-1-1 system shall be the Department of State Police.

1 ~~"Sufficient positive balance" means a dollar amount~~
2 ~~greater than or equal to the monthly wireless 9-1-1 surcharge~~
3 ~~amount.~~

4 "Wireless carrier" means a provider of two-way cellular,
5 broadband PCS, geographic area 800 MHZ and 900 MHZ Commercial
6 Mobile Radio Service (CMRS), Wireless Communications Service
7 (WCS), or other Commercial Mobile Radio Service (CMRS), as
8 defined by the Federal Communications Commission, offering
9 radio communications that may provide fixed, mobile, radio
10 location, or satellite communication services to individuals
11 or businesses within its assigned spectrum block and
12 geographical area or that offers real-time, two-way voice
13 service that is interconnected with the public switched
14 network, including a reseller of such service.

15 "Wireless enhanced 9-1-1" means the ability to relay the
16 telephone number of the originator of a 9-1-1 call and location
17 information from any mobile handset or text telephone device
18 accessing the wireless system to the designated wireless public
19 safety answering point as set forth in the order of the Federal
20 Communications Commission, FCC Docket No. 94-102, adopted June
21 12, 1996, with an effective date of October 1, 1996, and any
22 subsequent amendment thereto.

23 "Wireless public safety answering point" means the
24 functional division of an emergency telephone system board,
25 qualified governmental entity, or the Department of State
26 Police accepting wireless 9-1-1 calls.

1 "Wireless subscriber" means an individual or entity to whom
2 a wireless service account or number has been assigned by a
3 wireless carrier, other than an account or number associated
4 with prepaid wireless telecommunication service.

5 ~~"Wireless telephone service" includes prepaid wireless~~
6 ~~telephone service and means all "commercial mobile service", as~~
7 ~~that term is defined in 47 CFR 20.3, including all personal~~
8 ~~communications services, wireless radio telephone services,~~
9 ~~geographic area specialized and enhanced specialized mobile~~
10 ~~radio services, and incumbent wide area specialized mobile~~
11 ~~radio licenses that offer real time, two-way service that is~~
12 ~~interconnected with the public switched telephone network.~~

13 (Source: P.A. 95-63, eff. 8-13-07.)

14 (50 ILCS 751/17)

15 (Section scheduled to be repealed on April 1, 2013)

16 Sec. 17. Wireless carrier surcharge.

17 (a) Except as provided in Sections ~~Section~~ 45 and 80, each
18 wireless carrier shall impose a monthly wireless carrier
19 surcharge per CMRS connection that either has a telephone
20 number within an area code assigned to Illinois by the North
21 American Numbering Plan Administrator or has a billing address
22 in this State. ~~In the case of prepaid wireless telephone~~
23 ~~service, this surcharge shall be remitted based upon the~~
24 ~~address associated with the point of purchase, the customer~~
25 ~~billing address, or the location associated with the MTN for~~

1 ~~each active prepaid wireless telephone that has a sufficient~~
2 ~~positive balance as of the last day of each month, if that~~
3 ~~information is available.~~ No wireless carrier shall impose the
4 surcharge authorized by this Section upon any subscriber who is
5 subject to the surcharge imposed by a unit of local government
6 pursuant to Section 45. Prior to January 1, 2008 (the effective
7 date of Public Act 95-698), the surcharge amount shall be the
8 amount set by the Wireless Enhanced 9-1-1 Board. Beginning on
9 January 1, 2008 (the effective date of Public Act 95-698), the
10 monthly surcharge imposed under this Section shall be \$0.73 per
11 CMRS connection. The wireless carrier that provides wireless
12 service to the subscriber shall collect the surcharge from the
13 subscriber. For mobile telecommunications services provided on
14 and after August 1, 2002, any surcharge imposed under this Act
15 shall be imposed based upon the municipality or county that
16 encompasses the customer's place of primary use as defined in
17 the Mobile Telecommunications Sourcing Conformity Act. The
18 surcharge shall be stated as a separate item on the
19 subscriber's monthly bill. The wireless carrier shall begin
20 collecting the surcharge on bills issued within 90 days after
21 the Wireless Enhanced 9-1-1 Board sets the monthly wireless
22 surcharge. State and local taxes shall not apply to the
23 wireless carrier surcharge.

24 (b) Except as provided in Sections ~~Section~~ 45 and 80, a
25 wireless carrier shall, within 45 days of collection, remit,
26 either by check or by electronic funds transfer, to the State

1 Treasurer the amount of the wireless carrier surcharge
2 collected from each subscriber. Of the amounts remitted under
3 this subsection prior to January 1, 2008 (the effective date of
4 Public Act 95-698), and for surcharges imposed before January
5 1, 2008 (the effective date of Public Act 95-698) but remitted
6 after January 1, 2008, the State Treasurer shall deposit
7 one-third into the Wireless Carrier Reimbursement Fund and
8 two-thirds into the Wireless Service Emergency Fund. For
9 surcharges collected and remitted on or after January 1, 2008
10 (the effective date of Public Act 95-698), \$0.1475 per
11 surcharge collected shall be deposited into the Wireless
12 Carrier Reimbursement Fund, and \$0.5825 per surcharge
13 collected shall be deposited into the Wireless Service
14 Emergency Fund. Of the amounts deposited into the Wireless
15 Carrier Reimbursement Fund under this subsection, \$0.01 per
16 surcharge collected may be distributed to the carriers to cover
17 their administrative costs. Of the amounts deposited into the
18 Wireless Service Emergency Fund under this subsection, \$0.01
19 per surcharge collected may be disbursed to the Illinois
20 Commerce Commission to cover its administrative costs.

21 (c) The first such remittance by wireless carriers shall
22 include the number of wireless subscribers ~~customers~~ by zip
23 code, and the 9-digit zip code if currently being used or later
24 implemented by the carrier, that shall be the means by which
25 the Illinois Commerce Commission shall determine distributions
26 from the Wireless Service Emergency Fund. This information

1 shall be updated no less often than every year. Wireless
2 carriers are not required to remit surcharge moneys that are
3 billed to subscribers but not yet collected. Any carrier that
4 fails to provide the zip code information required under this
5 subsection (c) ~~or any prepaid wireless carrier that fails to~~
6 ~~provide zip code information based upon the addresses~~
7 ~~associated with its customers' points of purchase, customers'~~
8 ~~billing addresses, or locations associated with MTNs, as~~
9 ~~described in subsection (a) of this Section,~~ shall be subject
10 to the penalty set forth in subsection (f) of this Section.

11 (d) Any funds collected under the Prepaid Wireless 9-1-1
12 Surcharge Act shall be distributed using a prorated method
13 based upon zip code information collected from post-paid
14 wireless carriers under subsection (c) of this Section. Within
15 ~~90 days after August 13, 2007 (the effective date of Public Act~~
16 ~~95-63), each wireless carrier must implement a mechanism for~~
17 ~~the collection of the surcharge imposed under subsection (a) of~~
18 ~~this Section from its subscribers. If a wireless carrier does~~
19 ~~not implement a mechanism for the collection of the surcharge~~
20 ~~from its subscribers in accordance with this subsection (d),~~
21 ~~then the carrier is required to remit the surcharge for all~~
22 ~~subscribers until the carrier is deemed to be in compliance~~
23 ~~with this subsection (d) by the Illinois Commerce Commission.~~

24 (e) If before midnight on the last day of the third
25 calendar month after the closing date of the remit period a
26 wireless carrier does not remit the surcharge or any portion

1 thereof required under this Section, then the surcharge or
2 portion thereof shall be deemed delinquent until paid in full,
3 and the Illinois Commerce Commission may impose a penalty
4 against the carrier in an amount equal to the greater of:

5 (1) \$25 for each month or portion of a month from the
6 time an amount becomes delinquent until the amount is paid
7 in full; or

8 (2) an amount equal to the product of 1% and the sum of
9 all delinquent amounts for each month or portion of a month
10 that the delinquent amounts remain unpaid.

11 A penalty imposed in accordance with this subsection (e)
12 for a portion of a month during which the carrier provides the
13 number of subscribers by zip code as required under subsection
14 (c) of this Section shall be prorated for each day of that
15 month during which the carrier had not provided the number of
16 subscribers by zip code as required under subsection (c) of
17 this Section. Any penalty imposed under this subsection (e) is
18 in addition to the amount of the delinquency and is in addition
19 to any other penalty imposed under this Section.

20 (f) If, before midnight on the last day of the third
21 calendar month after the closing date of the remit period, a
22 wireless carrier does not provide the number of subscribers by
23 zip code as required under subsection (c) of this Section, then
24 the report is deemed delinquent and the Illinois Commerce
25 Commission may impose a penalty against the carrier in an
26 amount equal to the greater of:

1 (1) \$25 for each month or portion of a month that the
2 report is delinquent; or

3 (2) an amount equal to the product of 1/2¢ and the
4 number of subscribers served by the wireless carrier.

5 A penalty imposed in accordance with this subsection (f)
6 for a portion of a month during which the carrier pays the
7 delinquent amount in full shall be prorated for each day of
8 that month that the delinquent amount was paid in full. Any
9 penalty imposed under this subsection (f) is in addition to any
10 other penalty imposed under this Section.

11 (g) The Illinois Commerce Commission may enforce the
12 collection of any delinquent amount and any penalty due and
13 unpaid under this Section by legal action or in any other
14 manner by which the collection of debts due the State of
15 Illinois may be enforced under the laws of this State. The
16 Executive Director of the Illinois Commerce Commission, or his
17 or her designee, may excuse the payment of any penalty imposed
18 under this Section if the Executive Director, or his or her
19 designee, determines that the enforcement of this penalty is
20 unjust.

21 (h) Notwithstanding any provision of law to the contrary,
22 nothing shall impair the right of wireless carriers to recover
23 compliance costs for all emergency communications services
24 that are not reimbursed out of the Wireless Carrier
25 Reimbursement Fund directly from their wireless subscribers
26 ~~customers~~ via line-item charges on the wireless subscriber's

1 ~~customer's~~ bill. Those compliance costs include all costs
2 incurred by wireless carriers in complying with local, State,
3 and federal regulatory or legislative mandates that require the
4 transmission and receipt of emergency communications to and
5 from the general public, including, but not limited to, E-911.

6 (i) The Auditor General shall conduct, on an annual basis,
7 an audit of the Wireless Service Emergency Fund and the
8 Wireless Carrier Reimbursement Fund for compliance with the
9 requirements of this Act. The audit shall include, but not be
10 limited to, the following determinations:

11 (1) Whether the Commission is maintaining detailed
12 records of all receipts and disbursements from the Wireless
13 Carrier Emergency Fund and the Wireless Carrier
14 Reimbursement Fund.

15 (2) Whether the Commission's administrative costs
16 charged to the funds are adequately documented and are
17 reasonable.

18 (3) Whether the Commission's procedures for making
19 grants and providing reimbursements in accordance with the
20 Act are adequate.

21 (4) The status of the implementation of wireless 9-1-1
22 and E9-1-1 services in Illinois.

23 The Commission, the Department of State Police, and any
24 other entity or person that may have information relevant to
25 the audit shall cooperate fully and promptly with the Office of
26 the Auditor General in conducting the audit. The Auditor

1 General shall commence the audit as soon as possible and
2 distribute the report upon completion in accordance with
3 Section 3-14 of the Illinois State Auditing Act.

4 (Source: P.A. 95-63, eff. 8-13-07; 95-698, eff. 1-1-08; 95-876,
5 eff. 8-21-08.)

6 (50 ILCS 751/80 new)

7 Sec. 80. Prepaid wireless telecommunications service;
8 surcharge. The wireless carrier surcharge and any other
9 requirements imposed by Section 17 or authorized by Section 45
10 shall not apply to prepaid wireless telecommunications
11 service. The provisions of the Prepaid Wireless 9-1-1 Surcharge
12 Act shall apply to prepaid wireless telecommunications
13 service.

14 Section 97. The Public Utilities Act is amended by changing
15 Section 13-230 as follows:

16 (220 ILCS 5/13-230)

17 (Section scheduled to be repealed on July 1, 2013)

18 Sec. 13-230. Prepaid calling service. "Prepaid calling
19 service" means telecommunications service that must be paid for
20 in advance by an end user, enables the end user to originate
21 calls using an access number or authorization code, whether
22 manually or electronically dialed, and is sold in predetermined
23 units or dollars of which the number declines with use in a

1 known amount. A prepaid calling service call is a call made by
2 an end user using prepaid calling service. "Prepaid calling
3 service" does not include prepaid wireless telecommunications
4 ~~telephone~~ service as defined in Section 10 of the Wireless
5 Emergency Telephone Safety Act.

6 (Source: P.A. 93-1002, eff. 1-1-05.)

7 Section 997. Severability. The provisions of this Act are
8 severable under Section 1.31 of the Statute on Statutes.

9 Section 999. Effective date. This Act takes effect January
10 1, 2012, except that this Section and Section 90 shall take
11 effect upon becoming law.