

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 5. The Wireless Emergency Telephone Safety Act is
5 amended by changing Section 17 as follows:

6 (50 ILCS 751/17)

7 (Section scheduled to be repealed on July 1, 2015)

8 Sec. 17. Wireless carrier surcharge.

9 (a) Except as provided in Sections 45 and 80, each wireless
10 carrier shall impose a monthly wireless carrier surcharge per
11 CMRS connection that either has a telephone number within an
12 area code assigned to Illinois by the North American Numbering
13 Plan Administrator or has a billing address in this State. No
14 wireless carrier shall impose the surcharge authorized by this
15 Section upon any subscriber who is subject to the surcharge
16 imposed by a unit of local government pursuant to Section 45.
17 Prior to January 1, 2008 (the effective date of Public Act
18 95-698), the surcharge amount shall be the amount set by the
19 Wireless Enhanced 9-1-1 Board. Beginning on January 1, 2008
20 (the effective date of Public Act 95-698), the monthly
21 surcharge imposed under this Section shall be \$0.73 per CMRS
22 connection. The wireless carrier that provides wireless
23 service to the subscriber shall collect the surcharge from the

1 subscriber. For mobile telecommunications services provided on
2 and after August 1, 2002, any surcharge imposed under this Act
3 shall be imposed based upon the municipality or county that
4 encompasses the customer's place of primary use as defined in
5 the Mobile Telecommunications Sourcing Conformity Act. The
6 surcharge shall be stated as a separate item on the
7 subscriber's monthly bill. The wireless carrier shall begin
8 collecting the surcharge on bills issued within 90 days after
9 the Wireless Enhanced 9-1-1 Board sets the monthly wireless
10 surcharge. State and local taxes shall not apply to the
11 wireless carrier surcharge.

12 (b) Except as provided in Sections 45 and 80, a wireless
13 carrier shall, within 45 days of collection, remit, either by
14 check or by electronic funds transfer, to the Illinois Commerce
15 Commission for deposit with the State Treasurer the amount of
16 the wireless carrier surcharge collected from each subscriber.
17 Of the amounts remitted under this subsection prior to January
18 1, 2008 (the effective date of Public Act 95-698), and for
19 surcharges imposed before January 1, 2008 (the effective date
20 of Public Act 95-698) but remitted after January 1, 2008, the
21 State Treasurer shall deposit one-third into the Wireless
22 Carrier Reimbursement Fund and two-thirds into the Wireless
23 Service Emergency Fund. For surcharges collected and remitted
24 on or after January 1, 2008 (the effective date of Public Act
25 95-698), \$0.1475 per surcharge collected shall be deposited
26 into the Wireless Carrier Reimbursement Fund, and \$0.5825 per

1 surcharge collected shall be deposited into the Wireless
2 Service Emergency Fund. For surcharges collected and remitted
3 on or after July 1, 2014, \$0.05 per surcharge collected shall
4 be deposited into the Wireless Carrier Reimbursement Fund,
5 \$0.66 per surcharge shall be deposited into the Wireless
6 Service Emergency Fund, and \$0.02 per surcharge collected shall
7 be deposited into the Wireless Service Emergency Fund and
8 distributed in equal amounts to each County Emergency Telephone
9 System Board or qualified governmental entity Telephone Boards
10 in counties with a population under 100,000 according to the
11 most recent census data which is authorized by the Illinois
12 Commerce Commission to serve as a primary wireless 9-1-1 public
13 safety answering point for the county and to provide wireless
14 9-1-1 service as prescribed by subsection (b) of Section 15 of
15 this Act, and which does provide such service. Of the amounts
16 deposited into the Wireless Carrier Reimbursement Fund under
17 this subsection, \$0.01 per surcharge collected may be
18 distributed to the carriers to cover their administrative
19 costs. Of the amounts deposited into the Wireless Service
20 Emergency Fund under this subsection, \$0.01 per surcharge
21 collected may be disbursed to the Illinois Commerce Commission
22 to cover its administrative costs.

23 (c) The first such remittance by wireless carriers shall
24 include the number of wireless subscribers by zip code, and the
25 9-digit zip code if currently being used or later implemented
26 by the carrier, that shall be the means by which the Illinois

1 Commerce Commission shall determine distributions from the
2 Wireless Service Emergency Fund. This information shall be
3 updated no less often than every year. Wireless carriers are
4 not required to remit surcharge moneys that are billed to
5 subscribers but not yet collected. Any carrier that fails to
6 provide the zip code information required under this subsection
7 (c) shall be subject to the penalty set forth in subsection (f)
8 of this Section.

9 (d) Any funds collected under the Prepaid Wireless 9-1-1
10 Surcharge Act shall be distributed using a prorated method
11 based upon zip code information collected from post-paid
12 wireless carriers under subsection (c) of this Section.

13 (e) If before midnight on the last day of the third
14 calendar month after the closing date of the remit period a
15 wireless carrier does not remit the surcharge or any portion
16 thereof required under this Section, then the surcharge or
17 portion thereof shall be deemed delinquent until paid in full,
18 and the Illinois Commerce Commission may impose a penalty
19 against the carrier in an amount equal to the greater of:

20 (1) \$25 for each month or portion of a month from the
21 time an amount becomes delinquent until the amount is paid
22 in full; or

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

26 A penalty imposed in accordance with this subsection (e)

1 for a portion of a month during which the carrier provides the
2 number of subscribers by zip code as required under subsection
3 (c) of this Section shall be prorated for each day of that
4 month during which the carrier had not provided the number of
5 subscribers by zip code as required under subsection (c) of
6 this Section. Any penalty imposed under this subsection (e) is
7 in addition to the amount of the delinquency and is in addition
8 to any other penalty imposed under this Section.

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

16 (1) \$25 for each month or portion of a month that the
17 report is delinquent; or

18 (2) an amount equal to the product of $1/2\text{¢}$ and the
19 number of subscribers served by the wireless carrier. On
20 and after July 1, 2014, an amount equal to the product of
21 \$0.01 and the number of subscribers served by the wireless
22 carrier.

23 A penalty imposed in accordance with this subsection (f)
24 for a portion of a month during which the carrier pays the
25 delinquent amount in full shall be prorated for each day of
26 that month that the delinquent amount was paid in full. A

1 penalty imposed and collected in accordance with subsection (e)
2 or this subsection (f) shall be deposited into the Wireless
3 Service Emergency Fund for distribution according to Section 25
4 of this Act. Any penalty imposed under this subsection (f) is
5 in addition to any other penalty imposed under this Section.

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

16 (h) Notwithstanding any provision of law to the contrary,
17 nothing shall impair the right of wireless carriers to recover
18 compliance costs for all emergency communications services
19 that are not reimbursed out of the Wireless Carrier
20 Reimbursement Fund directly from their wireless subscribers
21 via line-item charges on the wireless subscriber's bill. Those
22 compliance costs include all costs incurred by wireless
23 carriers in complying with local, State, and federal regulatory
24 or legislative mandates that require the transmission and
25 receipt of emergency communications to and from the general
26 public, including, but not limited to, E-911.

1 (i) The Auditor General shall conduct, on an annual basis,
2 an audit of the Wireless Service Emergency Fund and the
3 Wireless Carrier Reimbursement Fund for compliance with the
4 requirements of this Act. The audit shall include, but not be
5 limited to, the following determinations:

6 (1) Whether the Commission is maintaining detailed
7 records of all receipts and disbursements from the Wireless
8 Carrier Emergency Fund and the Wireless Carrier
9 Reimbursement Fund.

10 (2) Whether the Commission's administrative costs
11 charged to the funds are adequately documented and are
12 reasonable.

13 (3) Whether the Commission's procedures for making
14 grants and providing reimbursements in accordance with the
15 Act are adequate.

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

18 The Commission, the Department of State Police, and any
19 other entity or person that may have information relevant to
20 the audit shall cooperate fully and promptly with the Office of
21 the Auditor General in conducting the audit. The Auditor
22 General shall commence the audit as soon as possible and
23 distribute the report upon completion in accordance with
24 Section 3-14 of the Illinois State Auditing Act.

25 (Source: P.A. 97-463, eff. 1-1-12; 98-634, eff. 6-6-14.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.