

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 76

HOUSE BILL 2229

AN ACT

AMENDING SECTIONS 9-1401, 9-1415, 9-1441, 9-1442, 9-1444, 9-1445 AND 9-1451, ARIZONA REVISED STATUTES; AMENDING TITLE 11, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 14; AMENDING SECTION 41-1092.01, ARIZONA REVISED STATUTES; RELATING TO VIDEO SERVICE PROVIDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-1401, Arizona Revised Statutes, is amended to
3 read:

4 9-1401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Affiliate" means a person that directly or indirectly, through
7 one or more intermediaries, controls, is controlled by or is under common
8 control with a video service provider.

9 2. "Agreement" means any agreement or contract.

10 3. "Boundaries of a local government" or "boundaries" means:—

11 ~~(a) For a city or town, all of the area within the corporate limits~~
12 ~~of the city or town.~~

13 ~~(b) For a county, all of the area of the county that is not within~~
14 ~~the corporate limits of any city or town, including unincorporated~~
15 ~~territory that is surrounded on all sides by a combination of one or more~~
16 ~~cities, towns or Indian reservations.~~

17 4. "Cable operator" has the same meaning prescribed in 47 United
18 States Code section 522.

19 5. "Cable service" has the same meaning prescribed in 47 United
20 States Code section 522.

21 6. "Cable system" has the same meaning prescribed in 47 United
22 States Code section 522.

23 7. "Commercial mobile service provider" means a person that
24 provides commercial mobile service as defined in 47 United States Code
25 section 332(d) or commercial mobile radio service as described in 47 Code
26 of Federal Regulations section ~~20.9~~ 20.3.

27 8. "Day" means a calendar day, except a Saturday or Sunday or a
28 holiday prescribed in section 1-301.

29 9. "Gross revenue":

30 (a) Means all cash, credits, property of any kind or nature or
31 other consideration that is received directly or indirectly by a video
32 service provider, its affiliates, or any person, firm or corporation in
33 which the video service provider has a financial interest or that has a
34 financial interest in the video service provider and that is derived from
35 the video service provider's operation of its video service network to
36 provide video service in the service area.

37 (b) Includes all revenue from charges for video service to
38 subscribers and all charges for installation, removal, connection or
39 reinstatement of equipment necessary for a subscriber to receive video
40 service and any other receipts from subscribers derived from the video
41 service provider's operation of the video service network to provide video
42 service, including receipts from forfeited deposits, sale or rental of
43 equipment to provide video service, late charges, interest and sale of
44 program guides.

1 (c) Does not include:

2 (i) Any revenue not received, even if billed, such as bad debt net
3 of any recoveries of bad debt or any refunds, credits, allowances or
4 discounts to subscribers to the extent that the refund, rebate, credit,
5 allowance or discount is attributed to video service.

6 (ii) Revenue from commercial advertising on the video service
7 network, the use or lease of studio facilities of the video service
8 network, internet access service, the use or lease of its facilities
9 located in the highways, the use or lease of leased access channels or
10 bandwidth, the use or lease of towers, the production of video programming
11 by the video service provider, the sale, exchange, use or cablecast of any
12 programming by the video service provider in the service area, sales to
13 the video service provider's subscribers by programmers of home shopping
14 services, reimbursements paid by programmers for launch fees or marketing
15 expenses, license fees, taxes or other fees or charges that the video
16 service provider collects and pays to any governmental authority, any
17 increase in the value of any stock, security or asset, or any dividends or
18 other distributions made from any stock or securities.

19 10. "Highway" means all roads, streets and alleys and other
20 dedicated public rights-of-way that are operated and maintained by a local
21 government.

22 11. "Holder" means a video service provider that has been issued a
23 uniform video service license pursuant to this chapter.

24 12. "Holdover cable operator" means an incumbent cable operator
25 that elects under sections 9-1412 and 9-1413 to continue to operate within
26 its service area pursuant to its local license.

27 13. "Incumbent cable operator" means a cable operator or other
28 video service provider that on December 31, 2019 is providing video
29 service in this state pursuant to a local license.

30 14. "Information service" has the same meaning prescribed in 47
31 United States Code section 153.

32 15. "Interactive computer service" has the same meaning prescribed
33 in 47 United States Code section 230(f).

34 16. "License" means a franchise as defined in 47 United States Code
35 section 522.

36 17. "License fee" means a license fee imposed by a local government
37 on a video service provider for using the highways to provide and for the
38 privilege of providing video service.

39 18. "Local government" means any city, including a charter city, ~~OR~~
40 town ~~or county~~.

41 19. "Local law" means any charter, code, ordinance, resolution,
42 regulation or other law of a local government.

43 20. "Local license" means any license, agreement, permit or similar
44 authorization that meets all of the following:

1 (a) Allows a person to construct or operate a video service network
2 within the boundaries of a local government.

3 (b) Is issued, granted, approved, extended or renewed by the local
4 government before January 1, 2020 pursuant to the authority of any
5 federal, state or local law in effect at the time of the issuance, grant,
6 approval, extension or renewal.

7 (c) Is effective under federal, state or local law on December 31,
8 2019 for the person to continue to construct or operate a video service
9 network within the boundaries of a local government.

10 21. "Multichannel video programming distributor" has the same
11 meaning prescribed in 47 United States Code section 522.

12 22. "Service area" means that part of the boundaries of a local
13 government within which a video service provider is authorized to provide
14 video service pursuant to a uniform video service license or a local
15 license.

16 23. "Subscriber" means any person in this state that purchases
17 video service. Subscriber does not include any person that purchases
18 video service for resale and that, on resale, is required to pay a license
19 fee pursuant to this chapter or the terms of a local license.

20 24. "Telecommunications":

21 (a) Means the transmission, between or among points specified by
22 the user, of information of the user's choosing, without change in the
23 form or content of the information sent and received, regardless of the
24 facilities, equipment or technology used.

25 (b) Does not include commercial mobile radio service, pay phone
26 service, interstate service or cable service.

27 25. "Telecommunications provider" means a person that is required
28 to obtain from the corporation commission a certificate of public
29 convenience and necessity to provide telecommunications service.

30 26. "Telecommunications service" means the offering of
31 telecommunications for a fee directly to the public, or to such users as
32 to be effectively available directly to the public, regardless of the
33 equipment, facilities or technology used.

34 27. "Uniform video service license" means a license that is issued
35 by a local government in the form of a uniform video service license
36 agreement as adopted pursuant to section 9-1411.

37 28. "Video service":

38 (a) Means the provision of multichannel video programming generally
39 considered comparable to video programming delivered by a television
40 broadcast station, video service or other digital television service,
41 whether provided as part of a tier, on demand or on a per-channel basis,
42 without regard to the technology used to deliver the video service,
43 including internet protocol technology or any successor technology.

44 (b) Includes cable service.

1 (c) Does not include any of the following:

2 (i) Video programming provided solely as part of, and through, a
3 service that enables users to access content, information, e-mail,
4 messaging or other services that are offered via the public internet.

5 (ii) Direct broadcast satellite service.

6 (iii) Wireless multichannel video programming that is provided by a
7 commercial mobile service provider.

8 29. "Video service network":

9 (a) Means a wireline network, or any component of a wireline
10 network, that is located in this state, constructed in whole or in part
11 in, on, under or over any highway and used to provide video service.

12 (b) Includes a cable system.

13 30. "Video service provider":

14 (a) Means any person that provides or offers to provide video
15 service over a video service network to subscribers in this state.

16 (b) Includes an incumbent cable operator that elected pursuant to
17 sections 9-1412 and 9-1413 to terminate its local license and a
18 multichannel video programming distributor.

19 (c) Does not include a holdover cable operator.

20 Sec. 2. Section 9-1415, Arizona Revised Statutes, is amended to
21 read:

22 9-1415. Authority granted by uniform video service license;
23 conditions and limitations prohibited; providing
24 video service

25 A. Not later than thirty days after the date an applicant files a
26 completed application and affidavit pursuant to section 9-1414, the local
27 government shall issue a uniform video service license to the applicant in
28 the form prescribed by section 9-1411. If the local government does not
29 notify the applicant about the completeness of the uniform video service
30 license agreement within the time period prescribed by section 9-1414,
31 subsection D or issue the agreement within the time period required under
32 this subsection, the agreement shall be considered complete and issued to
33 the applicant in the form submitted.

34 B. The uniform video service license issued to an applicant,
35 including an incumbent cable operator, by a local government is a
36 nonexclusive license granting to the holder of the uniform video service
37 license the authority for the term requested in the application to do all
38 of the following:

39 1. Provide video service in all service areas designated in the
40 application and affidavit filed with the local government.

41 2. Construct and operate a video service network in the highways in
42 each service area in compliance with this chapter and all local laws that
43 ~~are not in conflict or otherwise do not~~ conform to this chapter ~~or~~ AND the
44 purposes and objectives of this chapter.

~~3. Operate and maintain facilities installed in the highways in the service area under a local license pursuant to all of the following:~~

~~(a) Section 9-506, subsections I and J.~~

~~(b) Section 9-584.~~

~~(c) Chapter 5, article 8 of this title and title 11, chapter 13, article 1.~~

C. A local government may not condition or limit a uniform video service license by imposing any obligation or requirement that is not authorized by this chapter, including any of the following:

1. Any office location, institutional network or other build-out, line extension, investment or other requirements relating to the overall scope, extent and timing of infrastructure, facilities or deployment of equipment.

2. Any requirements to pay to any person any application, document, license, service or other fee, tax, charge or assessment that is not authorized by this chapter.

D. A holder of a uniform video service license shall provide video service in accordance with the certifications made by the holder in each application and affidavit that the holder files with a local government pursuant to this article.

Sec. 3. Section 9-1441, Arizona Revised Statutes, is amended to read:

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

A. In managing a highway under local laws as prescribed in section 9-1411, subsection C, paragraph 9, a local government may manage the use of the highway, including all of the following:

1. Requiring a video service provider that is constructing, installing, working within, maintaining or repairing facilities in, on, under or over any highway to obtain a construction, encroachment or occupancy permit for the work.

2. Inspecting the construction, installation, maintenance or repair work performed on such facilities.

3. Limiting the installation of new aerial facilities.

B. If a video service provider requests a permit or inspection, the local government shall grant or deny the request within the time frame that the local government has in place under section 9-835 ~~or 11-1605~~.

C. If emergency response work or repair becomes necessary in, on, under or over any highway, a video service provider may begin that work or repair without prior approval from a local government if the video service provider notifies the local government as promptly as reasonably possible after learning that the work or repair is necessary.

1 Sec. 4. Section 9-1442, Arizona Revised Statutes, is amended to
2 read:

3 9-1442. Fees and charges; emergency alert; damage;
4 undergrounding; wireless facilities; definition

5 A. Except the license fee on gross revenue authorized by section
6 9-1443 and transaction privilege taxes as provided in subsection B of this
7 section, a local government may not levy a tax, rent, fee or charge,
8 however denominated, on a video service provider for the use of the
9 highways to provide video service or levy a tax, fee or charge on the
10 privilege of engaging in the business of providing video service in the
11 service area. Taxes, rents, fees and charges include all of the
12 following:

13 1. Access channel support except for in-kind services, goods or
14 payments as provided in subsection C of this section.

15 2. Rental, application, construction, permit, inspection,
16 inconvenience and other fees and charges related to a video service
17 provider's use of the highways, including the use authorized by subsection
18 D of this section except that a local government may impose on a video
19 service provider some or all of the fees and charges described in this
20 paragraph. A video service provider shall offset the fees and charges
21 imposed pursuant to this paragraph against the next license fee payment
22 made pursuant to section 9-1443.

23 B. Any transaction privilege taxes otherwise authorized by local
24 law to be levied on the business of providing video service or in relation
25 to use of the highways to provide video service may be levied on a video
26 service provider if the taxes are levied only on gross revenue and the
27 rate of the taxes is subject to this subsection. This subsection does not
28 authorize the imposition of transaction privilege taxes on interstate
29 telecommunications service. The license fee and any transaction privilege
30 taxes levied on gross revenue constitute a franchise fee within the
31 meaning of the term in 47 United States Code section 542(g). The total of
32 the rates of the license fee and of any transaction privilege taxes on
33 gross revenue levied or assessed by a local government for the privilege
34 of providing video service and related use of the highways to provide
35 video service may not exceed a rate of five percent.

36 C. Subsection A of this section does not prohibit a local
37 government from levying fees and charges on a video service provider or
38 its affiliates pursuant to section 9-584 or pursuant to chapter 5, article
39 8 of this title ~~or title 11, chapter 13, article 1~~ without an offset
40 against license fees.

41 D. A local government may not require a video service provider to
42 provide in-kind goods or services, make in-kind payments, assessments or
43 obligations or pay a fee in addition to the monetary license fee levied or
44 assessed as provided in section 9-1443, except for any of the following:

1 1. A local law may impose and enforce obligations equally and
2 uniformly on all video service providers that are operating within the
3 boundaries of a local government and on all holdover cable operators that
4 hold a local license that remains in effect under section 9-1414,
5 subsection A. Under the local law, a local government:

6 (a) May require all video service providers to provide channel
7 capacity for the video service provider to transmit programming over which
8 the video service provider exercises no editorial control except as
9 authorized by 47 United States Code section 531(e). The channel capacity
10 shall be limited to one of the following:

11 (i) Not more than two channels of public, educational or
12 governmental access programming in the basic service tier of the video
13 service network and not more than two channels of noncommercial
14 governmental programming, at least one of which may be programmed by the
15 federal government, in the digital programming tier of the video service
16 network.

17 (ii) Not more than two lines of access programming with each line
18 of programming carried on up to two standard definition channels and two
19 switched digital high-definition channels.

20 (b) Shall specify the programming and the video service provider
21 may require that the channels regularly display an unobtrusive logo or
22 other suitable identifier of the video service provider, if the local
23 government requires channel capacity pursuant to subdivision (a) of this
24 paragraph.

25 (c) May require all video service providers to incur costs and
26 expenses to provide, maintain and operate facilities and equipment of the
27 video service network, including facilities and equipment for signal
28 carriage, processing, reformatting and interconnection for all of the
29 following:

30 (i) To connect the video service network or cable system, as it may
31 be relocated from time to time, to transmit programming to and from
32 existing locations of public, educational or governmental access
33 facilities and to allow monitoring of access programming at the
34 facilities.

35 (ii) To transmit public, educational and governmental access
36 channels to subscribers with the same prevailing quality, functionality
37 and identification as other channels.

38 (d) May require all video service providers and incumbent cable
39 operators to provide at no initial or recurring charge the basic service
40 tier of video service to one outlet and one receiving device at each
41 building occupied by the local government if the building is not more than
42 two hundred feet from the nearest technically and commercially feasible
43 point of connection on the video service network.

1 2. A local government may retain nonreceiving equipment that it
2 owns without charge for the equipment's use and at the local government's
3 expense, including equipment previously provided by an incumbent cable
4 operator.

5 E. A local law may not impose any obligation on a video service
6 provider under subsection D of this section that is more burdensome than
7 the least burdensome requirement under any local license with a service
8 area within the boundaries of the local government that was in effect on
9 February 1, 2019.

10 F. None of the annual fair market value of any channel capacity
11 provided pursuant to subsection D, paragraph 1, subdivision (a), the
12 annual costs and expenses incurred pursuant to subsection D, paragraph 1,
13 subdivision (c) and the annual fair market value of basic service and line
14 extension provided pursuant to subsection D, paragraph 1, subdivision (d)
15 may be offset against the license fee levied or assessed under this
16 section.

17 G. Notwithstanding subsection A of this section, by a
18 nondiscriminatory local law that imposes and enforces the obligations
19 equally and uniformly on all video service providers operating within the
20 boundaries of a local government, a local government may require that a
21 video service provider bear all of the reasonable costs that are
22 associated with repair and restoration of damage caused to private
23 property or highways by the repair, replacement, installation,
24 construction, maintenance or operation of the video service provider's
25 facilities in the highways and that are imposed on a competitively neutral
26 and nondiscriminatory basis in relation to costs borne by
27 telecommunications corporations under section 9-582, subsection C.

28 H. On application, a local government shall issue to a video
29 service provider or its affiliate a permit to attach allowed Wi-Fi radio
30 equipment to the video service network in the highways within the
31 boundaries of the local government. The permit shall allow installation,
32 operation and maintenance of allowed Wi-Fi radio equipment. A local
33 government may require that all of the allowed Wi-Fi radio equipment at a
34 single location fit within a fifteen-inch cube and be contained entirely
35 within a ground-mounted pedestal or be connected directly to and mounted
36 at the same height as one of the video service provider's aerial
37 horizontal conductors. This subsection does not do any of the following:

38 1. Prohibit a local government from requiring a video service
39 provider to place underground aerial facilities to which allowed Wi-Fi
40 equipment is attached.

41 2. Prohibit the imposition of a tax, rent, fee or charge on revenue
42 from services provided through allowed Wi-Fi radio equipment.

43 3. Affect the authority of a local government to manage the
44 highways within its boundaries or to exercise its police powers, including
45 review and approval of an application before issuing a permit.

1 4. Affect any authority of a political subdivision, including an
2 agricultural improvement district or any other special taxing district,
3 the local government or any other person controlling utility poles in the
4 highways to deny, limit, restrict or determine the terms and conditions
5 for the use of or attachment to the utility poles or attachments to other
6 poles of the political subdivision, local government or other person by a
7 video service provider.

8 I. This section does not prohibit a video service provider from
9 agreeing with a local government to provide in-kind services or goods or
10 make in-kind payments in the service area that are otherwise prohibited by
11 this section if the agreement with the local government is not entered
12 into as a condition of operating in the service area under a uniform video
13 service license issued pursuant to this chapter. The agreement may
14 authorize the video service provider to retain license fees and taxes
15 collected from its subscribers in the amount of any offset to license fees
16 specified in the agreement.

17 J. For the purposes of this section, "allowed Wi-Fi radio
18 equipment" means radio equipment that uses only unlicensed radio spectrum
19 and that enables wireless communication with a communications network for
20 unlicensed services such as Wi-Fi service.

21 Sec. 5. Section 9-1444, Arizona Revised Statutes, is amended to
22 read:

23 9-1444. Ownership of a video service network

24 ~~A. A city or town~~ LOCAL GOVERNMENT may not acquire an ownership
25 interest in a video service network unless the ownership interest is
26 acquired at not less than fair market value.

27 ~~B. Except for the purposes of acting as an intermediary in a~~
28 ~~transfer of a uniform video service license, a county may not own a video~~
29 ~~service network.~~

30 Sec. 6. Section 9-1445, Arizona Revised Statutes, is amended to
31 read:

32 9-1445. Review and audit; bundling discounts; action to
33 recover underpayment or overpayment

34 A. Not more than once every three years, a local government, ~~may~~ on
35 reasonable written notice, MAY audit the business books and records of a
36 video service provider to the extent necessary to ensure payment of
37 license fees pursuant to this chapter. The local government may not audit
38 any period that ends more than three years before the date that the notice
39 of audit is received. Any ~~audits~~ AUDIT of a period of time before
40 issuance of a uniform video service license shall be conducted pursuant to
41 the local laws in effect during the period of time.

42 B. Except as otherwise provided by federal law, if a video service
43 provider offers video service bundled with other services that are not
44 video service for a single discounted price, all of the following apply:

1 1. The method that the video service provider uses to determine
2 gross revenue subject to license fees by allocating the single discounted
3 price among the bundle of video service and nonvideo services shall be
4 reasonable and supported by the video service provider's books and
5 records.

6 2. The local government shall accept as reasonable, for purposes of
7 meeting the video service provider's burden of proof, an allocation based
8 on an objective and verifiable method using the books and records that the
9 video service provider kept in the regular course of business for other
10 purposes, including nontax purposes.

11 3. A video service provider may not use bundled offerings as a
12 means to evade paying license fees.

13 C. The local government and the video service provider shall each
14 pay its own costs and fees relating to each audit performed pursuant to
15 subsection A of this section. If the sum determined to be underpaid
16 exceeds five percent of the total fees that the audit determines should
17 have been paid for the period, the video service provider shall pay the
18 local government's reasonable costs of the audit.

19 D. The rate of interest for both underpayments and overpayments is
20 the federal short-term rate determined pursuant to 26 United States Code
21 section 6621(b), plus three percentage points.

22 E. A person that performs a review and audit under subsection A of
23 this section may not receive compensation that is based, in whole or in
24 part, on either of the following:

25 1. Finding a particular result.

26 2. The amount of any underpayment or overpayment of the license fee
27 that is identified because of the review and audit.

28 F. A complaint by a local government for underpayment of a license
29 fee from a video service provider or by a video service provider for
30 overpayment of a license fee to a local government shall be made pursuant
31 to article 5 of this chapter.

32 G. A complaint for a violation of the license fee obligations under
33 this chapter may not be made unless a written demand by a local government
34 for payment of the license fees or a written demand by a video service
35 provider for refund of license fees is made within four months after the
36 local government or video service provider realizes it has been damaged or
37 knows or reasonably should know of the damage caused by the alleged
38 violation.

39 H. A complaint must be filed pursuant to article 5 of this chapter
40 within two years after the written demand is made pursuant to ~~this~~
41 subsection G OF THIS SECTION but not sooner than four months after the
42 written demand.

1 Sec. 7. Section 9-1451, Arizona Revised Statutes, is amended to
2 read:

3 9-1451. Enforcement; office of administrative hearings; fees;
4 fund

5 A. A local government may file a written complaint against a video
6 service provider and a video service provider may file a written complaint
7 against a local government alleging a violation of this chapter or the
8 uniform video service license agreement. Unless otherwise provided in
9 section 9-1445, subsections F, G and H or this section:

10 1. All complaints must be filed with the office of administrative
11 hearings.

12 2. The complainant must serve a copy of the complaint on the party
13 that is the subject of the complaint by personal delivery or certified
14 mail, return receipt requested, or by any other method reasonably
15 calculated to effect actual notice to the local government's last address
16 of record for the party that is the subject of the complaint.

17 3. The party that is the subject of the complaint may file a
18 response to the complaint with the office of administrative hearings
19 within twenty days after service pursuant to paragraph 2 of this
20 subsection. Responses shall be served pursuant to paragraph 2 of this
21 subsection.

22 B. Before filing a complaint pursuant to this section ~~and~~ BOTH of
23 the following apply:

24 1. The complainant must provide notice of the alleged violation of
25 this chapter to the party that is the subject of the complaint.

26 2. The party that is the subject of the complaint must have a
27 period of not less than twenty days after the date it receives the notice
28 to resolve the alleged violation.

29 C. SUBSECTION B OF THIS SECTION DOES NOT APPLY TO A COMPLAINT MADE
30 IN A WRITTEN DEMAND PURSUANT TO SECTION 9-1445, SUBSECTION G.

31 ~~C.~~ D. A hearing before the office of administrative hearings shall
32 be held if a complaint that complies with this section is filed with the
33 office of administrative hearings. Unless other deadlines are established
34 for a particular complaint, all of the following apply:

35 1. The hearing shall be held within two months after the date that
36 the complaint is filed and service is completed pursuant to subsection A
37 of this section.

38 2. The date scheduled for the hearing may be advanced or delayed on
39 the agreement of the parties or on a showing of good cause.

40 ~~D.~~ E. The office of administrative hearings shall prepare and
41 serve a notice of hearing on all parties at least one month before the
42 hearing that states the time and place of the hearing.

43 ~~E.~~ F. A prehearing conference may be held pursuant to section
44 41-1092.05.

1 ~~F.~~ G. Unless it conflicts with the requirements of this section,
2 the hearing shall be conducted pursuant to section 41-1092.07.

3 ~~G.~~ H. The complainant has the burden of persuasion at a hearing
4 under this section.

5 ~~H.~~ I. The decision of the administrative law judge is the final
6 administrative decision with respect to the complaint. The office of
7 administrative hearings shall serve a copy of the administrative law
8 judge's decision on all parties. The final administrative decision may be
9 appealed to the superior court pursuant to title 12, chapter 7, article 6.
10 ~~Notwithstanding section 12-910,~~ The superior court proceeding shall be a
11 trial de novo.

12 ~~I.~~ J. A party may move for rehearing pursuant to section
13 41-1092.09 and the office of administrative hearings shall rule on the
14 motion. Moving for rehearing or review is not necessary for the party to
15 seek judicial review of the decision of the administrative law judge under
16 subsection ~~H~~ I of this section.

17 ~~J.~~ K. Service is complete on personal service or five days after
18 the date that the office of administrative hearings mails the final
19 administrative decision to each party's last known address of record with
20 the local government.

21 ~~K.~~ L. The office of administrative hearings shall adopt rules
22 pursuant to title 41, chapter 6 to administer hearings under this chapter
23 AND TITLE 11, CHAPTER 14. THE RULES SHALL APPLY UNIFORMLY TO HEARINGS
24 INVOLVING LOCAL GOVERNMENTS AND COUNTIES.

25 ~~L.~~ M. The office of administrative hearings shall establish,
26 administer and collect fees in an amount to be determined by the director
27 of the office of administrative hearings. The director shall deposit,
28 pursuant to sections 35-146 and 35-147, all monies in the video service
29 provider complaint fund established by subsection ~~M~~ N of this section.

30 ~~M.~~ N. The video service provider complaint fund is established
31 consisting of monies collected pursuant to subsection ~~L~~ M of this section
32 AND SECTION 11-1951, SUBSECTION M. The office of administrative hearings
33 shall administer the fund. Monies in the fund are continuously
34 appropriated. The office of administrative hearings shall use the monies
35 in the fund for the purpose of administering the duties specified in this
36 article AND TITLE 11, CHAPTER 14, ARTICLE 5.

37 Sec. 8. Title 11, Arizona Revised Statutes, is amended by adding
38 chapter 14, to read:

39 CHAPTER 14

40 VIDEO SERVICE

41 ARTICLE 1. GENERAL PROVISIONS

42 11-1901. Definitions

43 A. IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

5 3. "BOUNDARIES OF A COUNTY" OR "BOUNDARIES" MEANS ALL OF THE AREA
6 OF THE COUNTY THAT IS NOT WITHIN THE CORPORATE LIMITS OF ANY CITY OR TOWN,
7 INCLUDING UNINCORPORATED TERRITORY THAT IS SURROUNDED ON ALL SIDES BY A
8 COMBINATION OF ONE OR MORE CITIES, TOWNS OR INDIAN RESERVATIONS.

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

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

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

15 7. "COMMERCIAL MOBILE SERVICE PROVIDER" MEANS A PERSON THAT
16 PROVIDES COMMERCIAL MOBILE SERVICE AS DEFINED IN 47 UNITED STATES CODE
17 SECTION 332(d) OR COMMERCIAL MOBILE RADIO SERVICE AS DESCRIBED IN 47 CODE
18 OF FEDERAL REGULATIONS SECTION 20.3.

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

21 9. "GROSS REVENUE":

22 (a) MEANS ALL CASH, CREDITS, PROPERTY OF ANY KIND OR NATURE OR
23 OTHER CONSIDERATION THAT IS RECEIVED DIRECTLY OR INDIRECTLY BY A VIDEO
24 SERVICE PROVIDER, ITS AFFILIATES, OR ANY PERSON, FIRM OR CORPORATION IN
25 WHICH THE VIDEO SERVICE PROVIDER HAS A FINANCIAL INTEREST OR THAT HAS A
26 FINANCIAL INTEREST IN THE VIDEO SERVICE PROVIDER AND THAT IS DERIVED FROM
27 THE VIDEO SERVICE PROVIDER'S OPERATION OF ITS VIDEO SERVICE NETWORK TO
28 PROVIDE VIDEO SERVICE IN THE SERVICE AREA.

29 (b) INCLUDES ALL REVENUE FROM CHARGES FOR VIDEO SERVICE TO
30 SUBSCRIBERS AND ALL CHARGES FOR INSTALLATION, REMOVAL, CONNECTION OR
31 REINSTATEMENT OF EQUIPMENT NECESSARY FOR A SUBSCRIBER TO RECEIVE VIDEO
32 SERVICE AND ANY OTHER RECEIPTS FROM SUBSCRIBERS DERIVED FROM THE VIDEO
33 SERVICE PROVIDER'S OPERATION OF THE VIDEO SERVICE NETWORK TO PROVIDE VIDEO
34 SERVICE, INCLUDING RECEIPTS FROM FORFEITED DEPOSITS, SALE OR RENTAL OF
35 EQUIPMENT TO PROVIDE VIDEO SERVICE, LATE CHARGES, INTEREST AND SALE OF
36 PROGRAM GUIDES.

37 (c) DOES NOT INCLUDE:

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

42 (ii) REVENUE FROM COMMERCIAL ADVERTISING ON THE VIDEO SERVICE
43 NETWORK, THE USE OR LEASE OF STUDIO FACILITIES OF THE VIDEO SERVICE
44 NETWORK, INTERNET ACCESS SERVICE, THE USE OR LEASE OF ITS FACILITIES
45 LOCATED IN THE HIGHWAYS, THE USE OR LEASE OF LEASED ACCESS CHANNELS OR

1 BANDWIDTH, THE USE OR LEASE OF TOWERS, THE PRODUCTION OF VIDEO PROGRAMMING
2 BY THE VIDEO SERVICE PROVIDER, THE SALE, EXCHANGE, USE OR CABLECAST OF ANY
3 PROGRAMMING BY THE VIDEO SERVICE PROVIDER IN THE SERVICE AREA, SALES TO
4 THE VIDEO SERVICE PROVIDER'S SUBSCRIBERS BY PROGRAMMERS OF HOME SHOPPING
5 SERVICES, REIMBURSEMENTS PAID BY PROGRAMMERS FOR LAUNCH FEES OR MARKETING
6 EXPENSES, LICENSE FEES, TAXES OR OTHER FEES OR CHARGES THAT THE VIDEO
7 SERVICE PROVIDER COLLECTS AND PAYS TO ANY GOVERNMENTAL AUTHORITY, ANY
8 INCREASE IN THE VALUE OF ANY STOCK, SECURITY OR ASSET OR ANY DIVIDENDS OR
9 OTHER DISTRIBUTIONS MADE FROM ANY STOCK OR SECURITIES.

10 10. "HIGHWAY" MEANS ALL ROADS, STREETS AND ALLEYS AND OTHER
11 DEDICATED PUBLIC RIGHTS-OF-WAY THAT ARE OPERATED AND MAINTAINED BY THE
12 COUNTY.

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

15 12. "HOLDOVER CABLE OPERATOR" MEANS AN INCUMBENT CABLE OPERATOR
16 THAT ELECTS UNDER SECTIONS 11-1912 AND 11-1913 TO CONTINUE TO OPERATE
17 WITHIN ITS SERVICE AREA PURSUANT TO ITS LOCAL LICENSE.

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

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

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

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

27 17. "LICENSE FEE" MEANS A LICENSE FEE IMPOSED BY A COUNTY ON A
28 VIDEO SERVICE PROVIDER FOR USING THE HIGHWAYS TO PROVIDE AND FOR THE
29 PRIVILEGE OF PROVIDING VIDEO SERVICE.

30 18. "LOCAL LAW" MEANS ANY CODE, ORDINANCE, RESOLUTION, REGULATION
31 OR OTHER LAW OF A COUNTY.

32 19. "LOCAL LICENSE" MEANS ANY LICENSE, AGREEMENT, PERMIT OR SIMILAR
33 AUTHORIZATION THAT MEETS ALL OF THE FOLLOWING:

34 (a) ALLOWS A PERSON TO CONSTRUCT OR OPERATE A VIDEO SERVICE NETWORK
35 WITHIN THE BOUNDARIES OF A COUNTY.

36 (b) IS ISSUED, GRANTED, APPROVED, EXTENDED OR RENEWED BY THE COUNTY
37 BEFORE JANUARY 1, 2020 PURSUANT TO THE AUTHORITY OF ANY FEDERAL, STATE OR
38 LOCAL LAW IN EFFECT AT THE TIME OF THE ISSUANCE, GRANT, APPROVAL,
39 EXTENSION OR RENEWAL.

40 (c) IS EFFECTIVE UNDER FEDERAL, STATE OR LOCAL LAW ON DECEMBER 31,
41 2019 FOR THE PERSON TO CONTINUE TO CONSTRUCT OR OPERATE A VIDEO SERVICE
42 NETWORK WITHIN THE BOUNDARIES OF A COUNTY.

43 20. "MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR" HAS THE SAME
44 MEANING PRESCRIBED IN 47 UNITED STATES CODE SECTION 522.

1 21. "SERVICE AREA" MEANS THAT PART OF THE BOUNDARIES OF A COUNTY
2 WITHIN WHICH A VIDEO SERVICE PROVIDER IS AUTHORIZED TO PROVIDE VIDEO
3 SERVICE PURSUANT TO A UNIFORM VIDEO SERVICE LICENSE OR A LOCAL LICENSE.

4 22. "SUBSCRIBER" MEANS ANY PERSON IN THIS STATE THAT PURCHASES
5 VIDEO SERVICE. SUBSCRIBER DOES NOT INCLUDE ANY PERSON THAT PURCHASES
6 VIDEO SERVICE FOR RESALE AND THAT, ON RESALE, IS REQUIRED TO PAY A LICENSE
7 FEE PURSUANT TO THIS CHAPTER OR THE TERMS OF A LOCAL LICENSE.

8 23. "TELECOMMUNICATIONS":

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

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

15 24. "TELECOMMUNICATIONS PROVIDER" MEANS A PERSON THAT IS REQUIRED
16 TO OBTAIN FROM THE CORPORATION COMMISSION A CERTIFICATE OF PUBLIC
17 CONVENIENCE AND NECESSITY TO PROVIDE TELECOMMUNICATIONS SERVICE.

18 25. "TELECOMMUNICATIONS SERVICE" MEANS THE OFFERING OF
19 TELECOMMUNICATIONS FOR A FEE DIRECTLY TO THE PUBLIC, OR TO SUCH USERS AS
20 TO BE EFFECTIVELY AVAILABLE DIRECTLY TO THE PUBLIC, REGARDLESS OF THE
21 EQUIPMENT, FACILITIES OR TECHNOLOGY USED.

22 26. "UNIFORM VIDEO SERVICE LICENSE" MEANS A LICENSE THAT IS ISSUED
23 BY A COUNTY IN THE FORM OF UNIFORM VIDEO SERVICE LICENSE AGREEMENT AS
24 ADOPTED PURSUANT TO SECTION 11-1911.

25 27. "VIDEO SERVICE":

26 (a) MEANS THE PROVISION OF MULTICHANNEL VIDEO PROGRAMMING GENERALLY
27 CONSIDERED COMPARABLE TO VIDEO PROGRAMMING DELIVERED BY A TELEVISION
28 BROADCAST STATION, VIDEO SERVICE OR OTHER DIGITAL TELEVISION SERVICE,
29 WHETHER PROVIDED AS PART OF A TIER, ON DEMAND OR ON A PER-CHANNEL BASIS,
30 WITHOUT REGARD TO THE TECHNOLOGY USED TO DELIVER THE VIDEO SERVICE,
31 INCLUDING INTERNET PROTOCOL TECHNOLOGY OR ANY SUCCESSOR TECHNOLOGY.

32 (b) INCLUDES CABLE SERVICE.

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

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

37 (ii) DIRECT BROADCAST SATELLITE SERVICE.

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

40 28. "VIDEO SERVICE NETWORK":

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

44 (b) INCLUDES A CABLE SYSTEM.

1 29. "VIDEO SERVICE PROVIDER":

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

4 (b) INCLUDES AN INCUMBENT CABLE OPERATOR THAT ELECTED PURSUANT TO
5 SECTIONS 11-1912 AND 11-1913 TO TERMINATE ITS LOCAL LICENSE AND A
6 MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR.

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

8 11-1902. State preemption; uniform regulation and licensing

9 A. THE LICENSING OF VIDEO SERVICE PROVIDERS AND THE REGULATION AND
10 USE OF VIDEO SERVICE ARE MATTERS OF STATEWIDE CONCERN. EXCEPT AS PROVIDED
11 IN THIS CHAPTER, THE LICENSING OF VIDEO SERVICE PROVIDERS AND THE
12 REGULATION AND USE OF VIDEO SERVICE ARE NOT SUBJECT TO FURTHER REGULATION
13 BY A COUNTY. THE REGULATION OF VIDEO SERVICE PURSUANT TO THIS CHAPTER,
14 INCLUDING APPLICATION TO THE LOCAL LICENSES OF INCUMBENT CABLE OPERATORS,
15 IS REASONABLE AND NECESSARY TO PROMOTE ALL OF THE FOLLOWING:

16 1. PROVISION OF COMPETITIVE VIDEO, TELECOMMUNICATIONS AND
17 INFORMATION SERVICE THROUGHOUT THIS STATE.

18 2. MORE UNIFORM REGULATION OF COMPETITIVE VIDEO SERVICE THROUGHOUT
19 THIS STATE.

20 3. STREAMLINED LICENSING BY COUNTIES AND MORE UNIFORM TERMS AND
21 CONDITIONS FOR VIDEO SERVICE PROVIDERS THAT USE HIGHWAYS TO PROVIDE VIDEO
22 AND OTHER SERVICES OVER VIDEO SERVICE NETWORKS.

23 4. CONTINUED MANAGEMENT BY COUNTIES OF USE OF THEIR HIGHWAYS WITH
24 REASONABLE BURDENS ON CONSTRUCTION AND MAINTENANCE ACROSS BOUNDARIES FOR
25 VIDEO SERVICE PROVIDERS TO USE HIGHWAYS TO PROVIDE VIDEO AND OTHER
26 SERVICES OVER VIDEO SERVICE NETWORKS.

27 5. CONTINUED LEVYING OF LICENSE FEES BY COUNTIES ON SUBSCRIBER
28 SERVICE REVENUES DERIVED FROM OPERATING VIDEO SERVICE NETWORKS TO PROVIDE
29 VIDEO SERVICE.

30 6. SUPPORT FOR FEDERAL SUBSCRIBER SERVICE STANDARDS.

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

33 C. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, FROM AND AFTER
34 DECEMBER 31, 2019 THIS CHAPTER PREEMPTS AND LIMITS THE ABILITY OF A COUNTY
35 TO REGULATE OR ENFORCE ALL OF THE FOLLOWING:

36 1. THE APPLICATION OF TITLE 9, CHAPTER 5, ARTICLE 1.1 TO VIDEO
37 SERVICE PROVIDERS.

38 2. ANY LOCAL LAW AND ANY AGREEMENT WITH A COUNTY THAT DOES ANY OF
39 THE FOLLOWING:

40 (a) REQUIRES A PERSON OTHER THAN A HOLDOVER CABLE OPERATOR TO
41 OBTAIN OR HOLD FROM A COUNTY ANY LICENSE, PERMIT OR SIMILAR AUTHORIZATION
42 THAT IS A PREREQUISITE TO PROVIDING VIDEO SERVICE OR TO CONSTRUCTING,
43 MAINTAINING OR USING THE HIGHWAYS TO OPERATE A VIDEO SERVICE NETWORK IN
44 THE HIGHWAYS WITHIN ITS BOUNDARIES.

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

4 (c) IMPOSES ON A VIDEO SERVICE PROVIDER ANY REQUIREMENT THAT IS
5 RELATED TO INFRASTRUCTURE, FACILITIES OR DEPLOYMENT OF EQUIPMENT THAT DOES
6 NOT CONFORM TO THIS CHAPTER, INCLUDING OFFICE LOCATION, INSTITUTIONAL
7 NETWORK, BUILD-OUT, LINE EXTENSION, INVESTMENT OR OTHER OPERATIONAL
8 REQUIREMENTS THAT ARE NOT DIRECTLY RELATED TO THE COUNTY'S MANAGEMENT OF
9 DEVELOPMENT, USE AND OCCUPANCY OF THE HIGHWAYS.

10 (d) REQUIRES A VIDEO SERVICE PROVIDER TO OBTAIN A LICENSE OR OTHER
11 AUTHORIZATION FROM THE COUNTY TO PROVIDE TELECOMMUNICATIONS SERVICE,
12 INFORMATION SERVICE, INTERACTIVE COMPUTER SERVICE OR OTHER SERVICE IF THE
13 VIDEO SERVICE PROVIDER USES ITS VIDEO SERVICE NETWORK WITHIN THE
14 BOUNDARIES OF THE COUNTY TO PROVIDE THE SERVICE.

15 (e) REQUIRES A VIDEO SERVICE PROVIDER TO PAY TO LOCATE IN DUCTS OR
16 CONDUITS OR ON POLES OWNED BY THE COUNTY IF THE COUNTY REQUIRES
17 INSTALLATION IN THE DUCTS OR CONDUITS OR ON THE POLES.

18 11-1903. Limited application

19 THIS CHAPTER DOES NOT:

20 1. PREVENT A TELECOMMUNICATIONS PROVIDER FROM EXERCISING ANY RIGHTS
21 OR AUTHORITY THAT THE TELECOMMUNICATIONS PROVIDER HAS AS A PUBLIC UTILITY
22 UNDER FEDERAL OR STATE LAW.

23 2. AFFECT ANY AUTHORITY OF A COUNTY, AN AGRICULTURAL IMPROVEMENT
24 DISTRICT, ANY SPECIAL TAXING DISTRICT OR ANY OTHER PERSON THAT CONTROLS
25 UTILITY POLES ON THE HIGHWAYS TO DENY, LIMIT, RESTRICT OR DETERMINE THE
26 RATES, TERMS AND CONDITIONS FOR THE USE OF OR ATTACHMENT BY A VIDEO
27 SERVICE PROVIDER TO UTILITY OR OTHER POLES OWNED BY THE COUNTY OR OTHER
28 PERSON. FOR THE PURPOSES OF THIS PARAGRAPH, "AUTHORITY OF A COUNTY"
29 INCLUDES POLICE POWERS.

30 3. VEST IN THE CORPORATION COMMISSION ANY AUTHORITY OR JURISDICTION
31 OVER VIDEO SERVICE, VIDEO SERVICE PROVIDERS OR VIDEO SERVICE NETWORKS OR
32 OVER THE RATES, TERMS AND CONDITIONS OF POLE ATTACHMENTS UNDER 47 UNITED
33 STATES CODE SECTION 224.

34 4. AFFECT OR PREEMPT ANY GENERALLY APPLICABLE LOCAL LAWS, INCLUDING
35 A COUNTY'S POLICE POWER, TO MANAGE USE AND OCCUPANCY OF THE HIGHWAYS
36 WITHIN THE COUNTY'S BOUNDARIES OR TO EXERCISE THE COUNTY'S POLICE POWERS
37 IF THE COUNTY APPLIES THE LOCAL LAWS AND EXERCISE OF POLICE POWERS TO ALL
38 USERS OF THE HIGHWAYS IN A NONDISCRIMINATORY MANNER.

39 ARTICLE 2. LOCAL LICENSES

40 11-1911. Counties; uniform video service license agreement;
41 forms; provisions

42 A. FROM AND AFTER DECEMBER 31, 2019, A COUNTY HAS THE EXCLUSIVE
43 AUTHORITY TO ISSUE A UNIFORM VIDEO SERVICE LICENSE TO A PERSON TO PROVIDE
44 VIDEO SERVICE AND TO CONSTRUCT AND OPERATE A VIDEO SERVICE NETWORK IN ANY
45 SERVICE AREA WITHIN ITS BOUNDARIES.

1 B. NOT LATER THAN THE EFFECTIVE DATE OF THIS SECTION, EACH COUNTY
2 SHALL ADOPT A STANDARD FORM OF UNIFORM VIDEO SERVICE LICENSE AGREEMENT FOR
3 VIDEO SERVICE PROVIDERS TO BE USED BY THE COUNTY AND A STANDARD FORM OF
4 APPLICATION AND AFFIDAVIT AS DESCRIBED IN SECTION 11-1914. A COUNTY SHALL
5 PRESCRIBE OTHER FORMS ONLY AS NECESSARY TO IMPLEMENT THIS CHAPTER.

6 C. THE UNIFORM VIDEO SERVICE LICENSE AGREEMENT ADOPTED UNDER
7 SUBSECTION B OF THIS SECTION MUST INCLUDE ALL OF THE FOLLOWING PROVISIONS
8 IN SUBSTANTIALLY THE FOLLOWING FORM AND MAY NOT INCLUDE ANY OTHER
9 PROVISIONS:

10 1. THE NAME OF THE VIDEO SERVICE PROVIDER, ITS TYPE OF ENTITY AND
11 ITS JURISDICTION OF FORMATION.

12 2. THE ADDRESS AND TELEPHONE NUMBER OF THE VIDEO SERVICE PROVIDER'S
13 PRINCIPAL PLACE OF BUSINESS.

14 3. THE NAME AND ADDRESS OF THE VIDEO SERVICE PROVIDER'S PRINCIPAL
15 EXECUTIVE OFFICERS OR GENERAL PARTNERS AND ANY PERSONS AUTHORIZED TO
16 REPRESENT THE VIDEO SERVICE PROVIDER BEFORE THE COUNTY.

17 4. IF THE VIDEO SERVICE PROVIDER IS NOT AN INCUMBENT CABLE
18 OPERATOR, THE DATE ON WHICH THE PROVIDER EXPECTS TO PROVIDE VIDEO SERVICE
19 IN THE AREA IDENTIFIED UNDER PARAGRAPH 5 OF THIS SUBSECTION.

20 5. AN EXACT DESCRIPTION OF THE SERVICE AREA TO BE SERVED, AS
21 IDENTIFIED BY A GEOGRAPHIC INFORMATION SYSTEM DIGITAL BOUNDARY THAT MEETS
22 OR EXCEEDS NATIONAL MAP ACCURACY STANDARDS.

23 6. A REQUIREMENT THAT THE VIDEO SERVICE PROVIDER PAY THE LICENSE
24 FEES REQUIRED UNDER THIS CHAPTER AND ALL OTHER LAWFUL FEES AND CHARGES
25 IMPOSED BY THE COUNTY.

26 7. A REQUIREMENT THAT THE VIDEO SERVICE PROVIDER FILE IN A TIMELY
27 MANNER WITH THE FEDERAL COMMUNICATIONS COMMISSION ALL FORMS REQUIRED BY
28 THAT AGENCY BEFORE OFFERING VIDEO SERVICE IN THE SERVICE AREA, INCLUDING
29 THE FORMS REQUIRED BY 47 CODE OF FEDERAL REGULATIONS SECTION 76.1801.

30 8. A REQUIREMENT THAT THE VIDEO SERVICE PROVIDER AGREES TO COMPLY
31 WITH AND BE SUBJECT TO ALL VALID AND ENFORCEABLE FEDERAL AND STATE LAWS.

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

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

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

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

1 13. A GRANT OF AUTHORITY BY THE COUNTY TO PROVIDE VIDEO SERVICE IN
2 THE SERVICE AREA AS DESCRIBED UNDER PARAGRAPH 5 OF THIS SUBSECTION.

3 14. A GRANT OF AUTHORITY BY THE COUNTY TO USE AND OCCUPY THE
4 HIGHWAYS IN THE DELIVERY OF THE VIDEO SERVICE, SUBJECT TO THE LAWS OF THIS
5 STATE AND THE POLICE POWERS OF THE COUNTY.

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

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

9 D. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, FROM AND AFTER
10 DECEMBER 31, 2019 A PERSON MAY NOT ACT AS A VIDEO SERVICE PROVIDER OR
11 CONSTRUCT OR OPERATE A VIDEO SERVICE NETWORK WITHIN THE BOUNDARIES OF A
12 COUNTY WITHOUT FIRST HAVING BEEN ISSUED AND CONTINUING TO HOLD A UNIFORM
13 VIDEO SERVICE LICENSE WITH A SERVICE AREA ENCOMPASSING THE BOUNDARIES.

14 E. A LOCAL LICENSE SHALL REMAIN ENFORCEABLE IN ACCORDANCE WITH ITS
15 TERMS UNTIL TERMINATED UNDER SECTION 11-1912, SUBSECTION B.

16 11-1912. Incumbent cable operator; election on local license;
17 procedure to obtain uniform video service license
18 and terminate local license

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

21 1. CONTINUE TO OPERATE WITHIN A SERVICE AREA AS DEFINED IN THE
22 LOCAL LICENSE PURSUANT TO SECTION 11-1913.

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

26 B. ON OR BEFORE JULY 1, 2020, TO ELECT TO TERMINATE A LOCAL LICENSE
27 UNDER SUBSECTION A OF THIS SECTION IN THE SAME MANNER AS ANY OTHER VIDEO
28 SERVICE PROVIDER, AN INCUMBENT CABLE OPERATOR SHALL APPLY FOR A UNIFORM
29 VIDEO SERVICE LICENSE THAT INCLUDES ONLY THE SERVICE AREA THAT IS DEFINED
30 IN THE LOCAL LICENSE. IF AN INCUMBENT CABLE OPERATOR OBTAINS A UNIFORM
31 VIDEO SERVICE LICENSE FOR THE SERVICE AREA, BOTH OF THE FOLLOWING APPLY:

32 1. THE APPLICANT'S LOCAL LICENSE IS TERMINATED AS TO THE SERVICE
33 AREA BY OPERATION OF LAW FROM AND AFTER THE DATE THE COUNTY ISSUES THE
34 UNIFORM VIDEO SERVICE LICENSE.

35 2. THE INCUMBENT CABLE OPERATOR SHALL OPERATE WITHIN THE SERVICE
36 AREA DEFINED IN THE LOCAL LICENSE UNLESS THE INCUMBENT CABLE OPERATOR
37 ELECTS UNDER SECTION 11-1914, SUBSECTION C TO APPLY FOR A UNIFORM VIDEO
38 SERVICE LICENSE FOR A SERVICE AREA THAT CONSISTS OF THE BOUNDARIES OF THE
39 COUNTY.

40 11-1913. Incumbent cable operator; procedure to continue
41 operating under local license

42 A. IF AN INCUMBENT CABLE OPERATOR DOES NOT TIMELY ELECT TO
43 TERMINATE A LOCAL LICENSE FOR A SERVICE AREA PURSUANT TO SECTION 11-1912,
44 SUBSECTION B, THE PERSON SHALL CONTINUE TO OPERATE THE CABLE SYSTEM AS A
45 HOLDOVER CABLE OPERATOR WITHIN THE SERVICE AREA DEFINED IN THE LOCAL

1 LICENSE AND SHALL COMPLY WITH THE LOCAL LICENSE FOR AS LONG AS IT REMAINS
2 IN EFFECT FOR THE SERVICE AREA. THE LOCAL LICENSE IS NOT EFFECTIVE FOR
3 THE SERVICE AREA FROM AND AFTER THE DATE THE LOCAL LICENSE EXPIRES BY ITS
4 TERMS. THE COUNTY MAY NOT UNILATERALLY RENEW OR EXTEND THE TERM OF THE
5 LOCAL LICENSE FOR THE SERVICE AREA. THE COUNTY AND THE HOLDOVER CABLE
6 OPERATOR SHALL COMPLY WITH ALL OF THE FOLLOWING, WHICH SHALL CONTINUE TO
7 APPLY TO THE LOCAL LICENSE:

8 1. TITLE 9, CHAPTER 5, ARTICLE 1.1.

9 2. SECTION 9-584.

10 3. TITLE 9, CHAPTER 5, ARTICLE 8.

11 4. CHAPTER 13, ARTICLE 1 OF THIS TITLE.

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

16 C. IF A HOLDOVER CABLE OPERATOR IS ISSUED A UNIFORM VIDEO SERVICE
17 LICENSE WITH A SERVICE AREA THAT INCLUDES THE SERVICE AREA DEFINED UNDER
18 THE LOCAL LICENSE WHILE OPERATING PURSUANT TO THE LOCAL LICENSE UNDER
19 SUBSECTION A OF THIS SECTION, THE UNIFORM VIDEO SERVICE LICENSE DOES NOT
20 BECOME EFFECTIVE UNTIL THE LOCAL LICENSE EXPIRES.

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

24 11-1914. Uniform video service license: application: fees

25 A. TO OBTAIN A UNIFORM VIDEO SERVICE LICENSE, A PERSON SHALL FILE
26 WITH THE CLERK OF THE COUNTY AN APPLICATION AND AFFIDAVIT THAT ARE SIGNED
27 BY ONE OF THE PRINCIPAL EXECUTIVE OFFICERS OR GENERAL PARTNERS OF THE
28 APPLICANT AND THAT COMPLY WITH THIS SECTION.

29 B. THE APPLICATION AND AFFIDAVIT SHALL BE IN THE FORM REQUIRED BY
30 THE COUNTY AND SHALL BE REQUIRED TO CONTAIN ALL OF AND NOT MORE THAN THE
31 FOLLOWING:

32 1. EACH SERVICE AREA IN WHICH THE APPLICANT INTENDS TO PROVIDE
33 VIDEO SERVICE IN THE FORMAT AS DESCRIBED IN SECTION 11-1911, SUBSECTION C.
34 EXCEPT AS PROVIDED IN SECTION 11-1912, SUBSECTION B, PARAGRAPH 2, UNDER A
35 UNIFORM VIDEO SERVICE LICENSE THE BOUNDARIES OF THE COUNTY ARE A SINGLE
36 SERVICE AREA AND THE SERVICE AREA CONSISTS OF ALL OF THE TERRITORY WITHIN
37 THE BOUNDARIES OF THAT COUNTY.

38 2. THE INFORMATION PRESCRIBED BY SECTION 11-1911, SUBSECTION C,
39 PARAGRAPHS 1 THROUGH 4. THE HOLDER SHALL NOTIFY THE COUNTY IN WRITING OF
40 CHANGES TO THIS INFORMATION WITHIN THIRTY DAYS AFTER THE CHANGE OCCURS.

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

43 4. AN AGREEMENT TO PAY ALL LAWFUL FEES AND CHARGES IMPOSED BY THE
44 COUNTY.

1 C. AN INCUMBENT CABLE OPERATOR DESCRIBED IN SECTION 11-1912,
2 SUBSECTION B, PARAGRAPH 2 MAY ELECT TO APPLY FOR A UNIFORM VIDEO SERVICE
3 LICENSE FOR A SERVICE AREA THAT CONSISTS OF THE BOUNDARIES OF A COUNTY.

4 D. IF THE COUNTY DETERMINES THAT THE APPLICATION AND AFFIDAVIT ARE
5 INCOMPLETE OR OTHERWISE DEFICIENT FOR FAILURE TO COMPLY WITH THIS SECTION,
6 THE COUNTY SHALL PROVIDE WRITTEN NOTICE TO THE APPLICANT NOT LATER THAN
7 FIFTEEN DAYS AFTER THE DATE OF FILING OF THE APPLICATION AND AFFIDAVIT.
8 THE WRITTEN NOTICE SHALL DO BOTH OF THE FOLLOWING:

9 1. EXPLAIN THE INCOMPLETENESS OR DEFICIENCY IN DETAIL.
10 2. SPECIFY THE INFORMATION OR OTHER ITEMS THAT ARE NECESSARY UNDER
11 THIS SECTION FOR PROPER COMPLETION OF THE APPLICATION AND AFFIDAVIT.

12 E. THE COUNTY MAY NOT DO ANY OF THE FOLLOWING:

13 1. CHARGE A FEE FOR FILING OR PROCESSING AN APPLICATION, AFFIDAVIT,
14 NOTICE OR OTHER DOCUMENT UNDER THIS CHAPTER.
15 2. VOTE ON OR TAKE OTHER OFFICIAL ACTION REGARDING THE APPLICATION,
16 AFFIDAVIT, NOTICE OR OTHER DOCUMENT.
17 3. REQUIRE THE APPLICANT TO OBTAIN THE APPROVAL OF THE COUNTY
18 REGARDING THE APPLICATION, AFFIDAVIT, NOTICE OR OTHER DOCUMENT.
19 4. REQUIRE THE APPLICANT TO ENTER INTO AN AGREEMENT AS DESCRIBED IN
20 SECTION 11-1942, SUBSECTION I.

21 11-1915. Authority granted by uniform video service license;
22 conditions and limitations prohibited; providing
23 video service

24 A. WITHIN THE TIME FRAME THAT THE COUNTY HAS IN PLACE UNDER SECTION
25 11-1605 BUT NOT LATER THAN FORTY-FIVE DAYS AFTER THE DATE AN APPLICANT
26 FILES A COMPLETED APPLICATION AND AFFIDAVIT PURSUANT TO SECTION 11-1914,
27 THE COUNTY SHALL ISSUE A UNIFORM VIDEO SERVICE LICENSE TO THE APPLICANT IN
28 THE FORM PRESCRIBED BY SECTION 11-1911. IF THE COUNTY DOES NOT NOTIFY THE
29 APPLICANT ABOUT THE COMPLETENESS OF THE UNIFORM VIDEO SERVICE LICENSE
30 AGREEMENT WITHIN THE TIME PERIOD PRESCRIBED BY SECTION 11-1914, SUBSECTION
31 D OR ISSUE THE AGREEMENT WITHIN THE TIME PERIOD REQUIRED UNDER THIS
32 SUBSECTION, THE AGREEMENT SHALL BE CONSIDERED COMPLETE AND ISSUED TO THE
33 APPLICANT IN THE FORM SUBMITTED.

34 B. THE UNIFORM VIDEO SERVICE LICENSE ISSUED TO AN APPLICANT,
35 INCLUDING AN INCUMBENT CABLE OPERATOR, BY A COUNTY IS A NONEXCLUSIVE
36 LICENSE GRANTING TO THE HOLDER OF THE UNIFORM VIDEO SERVICE LICENSE THE
37 AUTHORITY FOR THE TERM REQUESTED IN THE APPLICATION TO DO ALL OF THE
38 FOLLOWING:

39 1. PROVIDE VIDEO SERVICE IN ALL SERVICE AREAS DESIGNATED IN THE
40 APPLICATION AND AFFIDAVIT FILED WITH THE COUNTY.

41 2. CONSTRUCT AND OPERATE A VIDEO SERVICE NETWORK IN THE HIGHWAYS IN
42 EACH SERVICE AREA IN COMPLIANCE WITH THIS CHAPTER AND ALL LOCAL LAWS THAT
43 CONFORM TO THIS CHAPTER AND THE PURPOSES AND OBJECTIVES OF THIS CHAPTER.

1 C. A COUNTY MAY NOT CONDITION OR LIMIT A UNIFORM VIDEO SERVICE
2 LICENSE BY IMPOSING ANY OBLIGATION OR REQUIREMENT THAT IS NOT AUTHORIZED
3 BY THIS CHAPTER, INCLUDING ANY OF THE FOLLOWING:

4 1. ANY OFFICE LOCATION, INSTITUTIONAL NETWORK OR OTHER BUILD-OUT,
5 LINE EXTENSION, INVESTMENT OR OTHER REQUIREMENTS RELATING TO THE OVERALL
6 SCOPE, EXTENT AND TIMING OF INFRASTRUCTURE, FACILITIES OR DEPLOYMENT OF
7 EQUIPMENT.

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

11 D. A HOLDER OF A UNIFORM VIDEO SERVICE LICENSE SHALL PROVIDE VIDEO
12 SERVICE IN ACCORDANCE WITH THE CERTIFICATIONS MADE BY THE HOLDER IN EACH
13 APPLICATION AND AFFIDAVIT THAT THE HOLDER FILES WITH THE COUNTY PURSUANT
14 TO THIS ARTICLE.

15 11-1916. Amendment of uniform video service license to add
16 service area

17 A. TO ADD ONE OR MORE NEW SERVICE AREAS TO A UNIFORM VIDEO SERVICE
18 LICENSE, THE HOLDER SHALL FILE WITH THE CLERK OF THE COUNTY AN APPLICATION
19 FOR AN AMENDMENT TO THE UNIFORM VIDEO SERVICE LICENSE TO ADD EACH NEW
20 SERVICE AREA.

21 B. THE APPLICATION IS SUBJECT TO THE SAME PROCEDURES, REQUIREMENTS,
22 LIMITATIONS AND TIME PERIODS AS AN APPLICATION FOR ISSUANCE OF A UNIFORM
23 VIDEO SERVICE LICENSE PURSUANT TO SECTIONS 11-1914 AND 11-1915.

24 11-1917. Termination of service

25 A. TO TERMINATE THE AUTHORITY TO PROVIDE VIDEO SERVICE TO AN
26 EXISTING SERVICE AREA AUTHORIZED UNDER THE UNIFORM VIDEO SERVICE LICENSE,
27 THE HOLDER OF THE UNIFORM VIDEO SERVICE LICENSE SHALL FILE WITH THE CLERK
28 OF THE COUNTY WRITTEN NOTICE OF THE TERMINATION.

29 B. THE HOLDER MAY TERMINATE SERVICE ON AND AFTER THE DATE THAT THE
30 HOLDER FILES THE WRITTEN NOTICE WITH THE CLERK OF THE COUNTY.

31 C. THE HOLDER SHALL:

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

34 2. GIVE ALL AFFECTED SUBSCRIBERS AND COUNTIES NOTICE AT LEAST
35 NINETY DAYS BEFORE TERMINATION OF SERVICE IN ALL OF A SERVICE AREA THAT
36 CONSISTS OF THE BOUNDARIES OF THE COUNTY.

37 11-1918. Boundary change

38 EACH COUNTY WHOSE BOUNDARIES CHANGE SHALL NOTIFY IN A TIMELY MANNER
39 EACH VIDEO SERVICE PROVIDER THAT OPERATES IN THE BOUNDARIES.

40 11-1919. Transfer of uniform video service license

41 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR OTHERWISE
42 REQUIRED BY FEDERAL LAW, INCLUDING RULES AND REGULATIONS OF THE FEDERAL
43 COMMUNICATIONS COMMISSION, A UNIFORM VIDEO SERVICE LICENSE IS FULLY
44 TRANSFERABLE TO ANY PERSON WHETHER THE TRANSFER ARISES THROUGH MERGER,
45 SALE, ASSIGNMENT, RESTRUCTURING, CHANGE OF CONTROL OR OTHER TYPE OF

1 TRANSACTION. A TRANSFER DOES NOT INCLUDE AN ASSIGNMENT OF A UNIFORM VIDEO
2 SERVICE LICENSE FOR THE PURPOSE OF SECURING INDEBTEDNESS. A TRANSFER MAY
3 INCLUDE LESS THAN ALL SERVICE AREAS ASSOCIATED WITH A UNIFORM VIDEO
4 SERVICE LICENSE.

5 B. THE HOLDER SHALL FILE WITH THE CLERK OF THE COUNTY WRITTEN
6 NOTICE OF THE TRANSFER OF THE UNIFORM VIDEO SERVICE LICENSE. ON THE
7 FILING OF NOTICE UNDER THIS SUBSECTION, THE TRANSFEREE BECOMES THE HOLDER.

8 11-1920. Extension

9 A. TO EXTEND THE TERM OF A UNIFORM VIDEO SERVICE LICENSE, THE
10 HOLDER OF THE UNIFORM VIDEO SERVICE LICENSE SHALL FILE WITH THE CLERK OF
11 THE COUNTY AT LEAST ONE MONTH BEFORE THE END OF THE TERM OF THE UNIFORM
12 VIDEO SERVICE LICENSE A NOTICE TO EXTEND THE TERM FOR A SPECIFIED PERIOD
13 NOT TO EXCEED TEN YEARS.

14 B. EFFECTIVE ON THE DATE THE HOLDER FILES THE WRITTEN NOTICE WITH
15 THE CLERK OF THE COUNTY, THE TERM IS EXTENDED FOR THE SPECIFIED PERIOD
16 FROM AND AFTER THE DATE OF THE END OF THE THEN-CURRENT TERM.

17 C. TRANSFERRING, AMENDING OR MODIFYING A UNIFORM VIDEO SERVICE
18 LICENSE UNDER OTHER SECTIONS OF THIS ARTICLE DOES NOT EXTEND THE TERM OF
19 THE UNIFORM VIDEO SERVICE LICENSE.

20 11-1921. Subscriber complaints

21 A. A SUBSCRIBER MAY SUBMIT COMPLAINTS ABOUT VIDEO SERVICE TO ANY OF
22 THE FOLLOWING:

- 23 1. THE COUNTY WHERE THE SUBSCRIBER RESIDES.
- 24 2. THE ATTORNEY GENERAL.
- 25 3. THE FEDERAL COMMUNICATIONS COMMISSION.
- 26 4. OTHER AUTHORITIES AS PROVIDED BY LAW.

27 B. A COUNTY MAY CHOOSE TO MONITOR AND ASSIST SUBSCRIBERS WITH THE
28 SUBSCRIBER SERVICE STANDARDS PURSUANT TO 47 CODE OF FEDERAL REGULATIONS
29 SECTION 76.309(c) OR TO BE IDENTIFIED ON BILLS TO SUBSCRIBERS AS THE LOCAL
30 FRANCHISE AUTHORITY FOR A SERVICE AREA CONSISTENT WITH RULES OF THE
31 FEDERAL COMMUNICATIONS COMMISSION.

32 ARTICLE 3. DUTIES OF VIDEO SERVICE PROVIDERS

33 11-1931. Video service; revocation for nonuse

34 A. NOT LATER THAN TWENTY-FOUR MONTHS AFTER THE DATE THAT A COUNTY
35 ISSUES A UNIFORM VIDEO SERVICE LICENSE PURSUANT TO SECTIONS 11-1914 AND
36 11-1915 OR AN AMENDED UNIFORM VIDEO SERVICE LICENSE PURSUANT TO SECTION
37 11-1916, THE HOLDER OF THE UNIFORM VIDEO SERVICE LICENSE SHALL OFFER AND
38 PROVIDE VIDEO SERVICE TO AT LEAST ONE SUBSCRIBER WITHIN EACH SERVICE AREA
39 AUTHORIZED BY THE UNIFORM VIDEO SERVICE LICENSE OR AMENDED UNIFORM VIDEO
40 SERVICE LICENSE UNLESS THE HOLDER CANNOT MEET THE REQUIREMENT FOR REASONS
41 BEYOND THE HOLDER'S CONTROL.

42 B. IF A HOLDER FAILS TO COMPLY WITH SUBSECTION A OF THIS SECTION, A
43 COUNTY MAY REVOKE THE HOLDER'S UNIFORM VIDEO SERVICE LICENSE FOR AFFECTED
44 SERVICE AREAS.

11-1932. Reports; confidentiality; definition

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

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

C. INFORMATION CONTAINED IN A REPORT THAT IS SUBMITTED TO A COUNTY PURSUANT TO THIS SECTION:

1. IS CONFIDENTIAL PROPRIETARY INFORMATION OF THE VIDEO SERVICE PROVIDER.

2. IS NOT A PUBLIC RECORD.

3. MUST BE MANAGED SO THAT ANY CRITICAL INFRASTRUCTURE INFORMATION CONTAINED IN THE REPORT IS PROTECTED AS PROVIDED BY LAW.

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

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

11-1933. Nondiscriminatory manner; compliance with standards and federal law

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

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

1. 47 UNITED STATES CODE SECTION 551.

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

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

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

5. 47 CODE OF FEDERAL REGULATIONS SECTIONS 76.309, 76.1601, 76.1602, 76.1603, 76.1604, 76.1618, 76.1619, 76.1620, 76.1621 AND 76.1622, AS ADOPTED AND AS MAY BE AMENDED BY THE FEDERAL COMMUNICATIONS COMMISSION,

1 ON STANDARDS GOVERNING THE QUALITY OF VIDEO SERVICE AND SUBSCRIBER
2 SERVICE. A VIDEO SERVICE PROVIDER MAY NOT BE REQUIRED TO COMPLY WITH ANY
3 SUBSCRIBER SERVICE STANDARDS THAT ARE MORE BURDENSOME THAN THOSE SET FORTH
4 IN THIS PARAGRAPH.

5 ARTICLE 4. COUNTIES

6 11-1941. Management of highways; counties; permits or
7 licenses

8 A. IN MANAGING A HIGHWAY UNDER LOCAL LAWS DESCRIBED IN SECTION
9 11-1911, SUBSECTION C, PARAGRAPH 9, A COUNTY MAY MANAGE THE USE OF THE
10 HIGHWAY INCLUDING ALL OF THE FOLLOWING:

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

15 2. INSPECTING THE CONSTRUCTION, INSTALLATION, MAINTENANCE OR REPAIR
16 WORK PERFORMED ON SUCH FACILITIES.

17 3. LIMITING INSTALLATION OF NEW AERIAL FACILITIES.

18 B. IF A VIDEO SERVICE PROVIDER REQUESTS A PERMIT OR INSPECTION, THE
19 COUNTY SHALL GRANT OR DENY THE REQUEST WITHIN THE TIME FRAME THAT THE
20 COUNTY HAS IN PLACE UNDER SECTION 11-1605.

21 C. IF EMERGENCY RESPONSE WORK OR REPAIR BECOMES NECESSARY IN, ON,
22 UNDER OR OVER ANY HIGHWAY, A VIDEO SERVICE PROVIDER MAY BEGIN THAT WORK OR
23 REPAIR WITHOUT PRIOR APPROVAL FROM A COUNTY IF THE VIDEO SERVICE PROVIDER
24 NOTIFIES THE COUNTY AS PROMPTLY AS REASONABLY POSSIBLE AFTER LEARNING THAT
25 THE WORK OR REPAIR IS NECESSARY.

26 11-1942. Fees and charges; emergency alert; damage;
27 undergrounding; wireless facilities; definition

28 A. EXCEPT THE LICENSE FEE ON GROSS REVENUE AUTHORIZED BY SECTION
29 11-1943 AND EXCISE TAXES AS PROVIDED IN SUBSECTION B OF THIS SECTION, A
30 COUNTY MAY NOT LEVY A TAX, RENT, FEE OR CHARGE, HOWEVER DENOMINATED, ON A
31 VIDEO SERVICE PROVIDER FOR THE USE OF THE HIGHWAYS TO PROVIDE VIDEO
32 SERVICE OR LEVY A TAX, FEE OR CHARGE ON THE PRIVILEGE OF ENGAGING IN THE
33 BUSINESS OF PROVIDING VIDEO SERVICE IN THE SERVICE AREA. TAXES, RENTS,
34 FEES AND CHARGES INCLUDE ALL OF THE FOLLOWING:

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

37 2. RENTAL, APPLICATION, CONSTRUCTION, PERMIT, INSPECTION,
38 INCONVENIENCE AND OTHER FEES AND CHARGES RELATED TO A VIDEO SERVICE
39 PROVIDER'S USE OR OCCUPANCY OF THE HIGHWAYS, INCLUDING THE USE AUTHORIZED
40 BY SUBSECTION D OF THIS SECTION EXCEPT THAT A COUNTY MAY IMPOSE ON A VIDEO
41 SERVICE PROVIDER SOME OR ALL OF THE FEES AND CHARGES DESCRIBED IN THIS
42 PARAGRAPH. A VIDEO SERVICE PROVIDER SHALL OFFSET THE FEES AND CHARGES
43 IMPOSED PURSUANT TO THIS PARAGRAPH AGAINST THE NEXT LICENSE FEE PAYMENT
44 MADE PURSUANT TO SECTION 11-1943.

1 B. ANY EXCISE TAXES OTHERWISE AUTHORIZED BY LOCAL LAW TO BE LEVIED
2 ON THE BUSINESS OF PROVIDING VIDEO SERVICE OR IN RELATION TO USE OF THE
3 HIGHWAYS TO PROVIDE VIDEO SERVICE MAY BE LEVIED ON A VIDEO SERVICE
4 PROVIDER IF THE TAXES ARE LEVIED ONLY ON GROSS REVENUE AND THE RATE OF THE
5 TAXES IS SUBJECT TO THIS SUBSECTION. THIS SUBSECTION DOES NOT AUTHORIZE
6 THE IMPOSITION OF EXCISE TAXES ON INTERSTATE TELECOMMUNICATIONS SERVICE.
7 THE LICENSE FEE AND ANY EXCISE TAXES LEVIED ON GROSS REVENUE CONSTITUTE A
8 FRANCHISE FEE WITHIN THE MEANING OF THE TERM IN 47 UNITED STATES CODE
9 SECTION 542(g). THE TOTAL OF THE RATES OF THE LICENSE FEE AND OF ANY
10 EXCISE TAXES ON GROSS REVENUE LEVIED OR ASSESSED BY A COUNTY FOR THE
11 PRIVILEGE OF PROVIDING VIDEO SERVICE AND RELATED USE OF THE HIGHWAYS TO
12 PROVIDE VIDEO SERVICE MAY NOT EXCEED A RATE OF FIVE PERCENT.

13 C. SUBSECTION A OF THIS SECTION DOES NOT PROHIBIT A COUNTY FROM
14 LEVYING FEES AND CHARGES ON A VIDEO SERVICE PROVIDER OR ITS AFFILIATES
15 PURSUANT TO SECTION 9-584 OR CHAPTER 13, ARTICLE 1 OF THIS TITLE WITHOUT
16 AN OFFSET AGAINST LICENSE FEES.

17 D. A COUNTY MAY NOT REQUIRE A VIDEO SERVICE PROVIDER TO PROVIDE
18 IN-KIND GOODS OR SERVICES, MAKE IN-KIND PAYMENTS, ASSESSMENTS OR
19 OBLIGATIONS OR PAY A FEE IN ADDITION TO THE MONETARY LICENSE FEE LEVIED OR
20 ASSESSED AS PROVIDED IN SECTION 11-1943, EXCEPT FOR ANY OF THE FOLLOWING:

21 1. A LOCAL LAW MAY IMPOSE AND ENFORCE OBLIGATIONS EQUALLY AND
22 UNIFORMLY ON ALL VIDEO SERVICE PROVIDERS THAT ARE OPERATING WITHIN THE
23 BOUNDARIES OF A COUNTY AND ON ALL HOLDOVER CABLE OPERATORS THAT HOLD A
24 LOCAL LICENSE THAT REMAINS IN EFFECT UNDER SECTION 11-1914, SUBSECTION A.
25 UNDER THE LOCAL LAW, A COUNTY:

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

31 (i) NOT MORE THAN TWO CHANNELS OF PUBLIC, EDUCATIONAL OR
32 GOVERNMENTAL ACCESS PROGRAMMING IN THE BASIC SERVICE TIER OF THE VIDEO
33 SERVICE NETWORK AND NOT MORE THAN TWO CHANNELS OF NONCOMMERCIAL
34 GOVERNMENTAL PROGRAMMING, AT LEAST ONE OF WHICH MAY BE PROGRAMMED BY THE
35 FEDERAL GOVERNMENT, IN THE DIGITAL PROGRAMMING TIER OF THE VIDEO SERVICE
36 NETWORK.

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

40 (b) SHALL SPECIFY THE PROGRAMMING AND THE VIDEO SERVICE PROVIDER
41 MAY REQUIRE THAT THE CHANNELS REGULARLY DISPLAY AN UNOBTRUSIVE LOGO OR
42 OTHER SUITABLE IDENTIFIER OF THE VIDEO SERVICE PROVIDER, IF THE COUNTY
43 REQUIRES CHANNEL CAPACITY PURSUANT TO SUBDIVISION (a) OF THIS PARAGRAPH.

1 (c) MAY REQUIRE ALL VIDEO SERVICE PROVIDERS TO INCUR COSTS AND
2 EXPENSES TO PROVIDE, MAINTAIN AND OPERATE FACILITIES AND EQUIPMENT OF THE
3 VIDEO SERVICE NETWORK, INCLUDING FACILITIES AND EQUIPMENT FOR SIGNAL
4 CARRIAGE, PROCESSING, REFORMATTING AND INTERCONNECTION FOR ALL OF THE
5 FOLLOWING:

6 (i) TO CONNECT THE VIDEO SERVICE NETWORK OR CABLE SYSTEM, AS IT MAY
7 BE RELOCATED FROM TIME TO TIME, TO TRANSMIT PROGRAMMING TO AND FROM
8 EXISTING LOCATIONS OF PUBLIC, EDUCATIONAL OR GOVERNMENTAL ACCESS
9 FACILITIES AND TO ALLOW MONITORING OF ACCESS PROGRAMMING AT THE
10 FACILITIES.

11 (ii) TO TRANSMIT PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS
12 CHANNELS TO SUBSCRIBERS WITH THE SAME PREVAILING QUALITY, FUNCTIONALITY
13 AND IDENTIFICATION AS OTHER CHANNELS.

14 (d) MAY REQUIRE ALL VIDEO SERVICE PROVIDERS AND INCUMBENT CABLE
15 OPERATORS TO PROVIDE AT NO INITIAL OR RECURRING CHARGE THE BASIC SERVICE
16 TIER OF VIDEO SERVICE TO ONE OUTLET AND ONE RECEIVING DEVICE AT EACH
17 BUILDING OCCUPIED BY THE COUNTY IF THE BUILDING IS NOT MORE THAN TWO
18 HUNDRED FEET FROM THE NEAREST TECHNICALLY AND COMMERCIALY FEASIBLE POINT
19 OF CONNECTION ON THE VIDEO SERVICE NETWORK.

20 2. A COUNTY MAY RETAIN NONRECEIVING EQUIPMENT THAT IT OWNS WITHOUT
21 CHARGE FOR THE EQUIPMENT'S USE AND AT THE COUNTY'S EXPENSE, INCLUDING
22 EQUIPMENT PREVIOUSLY PROVIDED BY AN INCUMBENT CABLE OPERATOR.

23 E. A LOCAL LAW MAY NOT IMPOSE ANY OBLIGATION ON A VIDEO SERVICE
24 PROVIDER UNDER SUBSECTION D OF THIS SECTION THAT IS MORE BURDENSOME THAN
25 THE LEAST BURDENSOME REQUIREMENT UNDER ANY LOCAL LICENSE WITH A SERVICE
26 AREA WITHIN THE BOUNDARIES OF THE COUNTY THAT WAS IN EFFECT ON FEBRUARY 1,
27 2019.

28 F. NONE OF THE ANNUAL FAIR MARKET VALUE OF ANY CHANNEL CAPACITY
29 PROVIDED PURSUANT TO SUBSECTION D, PARAGRAPH 1, SUBDIVISION (a), THE
30 ANNUAL COSTS AND EXPENSES INCURRED PURSUANT TO SUBSECTION D, PARAGRAPH 1,
31 SUBDIVISION (c) AND THE ANNUAL FAIR MARKET VALUE OF BASIC SERVICE AND LINE
32 EXTENSION PROVIDED PURSUANT TO SUBSECTION D, PARAGRAPH 1, SUBDIVISION (d)
33 MAY BE OFFSET AGAINST THE LICENSE FEE LEVIED OR ASSESSED UNDER THIS
34 SECTION.

35 G. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, BY A
36 NONDISCRIMINATORY LOCAL LAW THAT IMPOSES AND ENFORCES THE OBLIGATIONS
37 EQUALLY AND UNIFORMLY ON ALL VIDEO SERVICE PROVIDERS OPERATING WITHIN THE
38 BOUNDARIES OF A COUNTY, A COUNTY MAY REQUIRE THAT A VIDEO SERVICE PROVIDER
39 BEAR ALL OF THE REASONABLE COSTS THAT ARE ASSOCIATED WITH REPAIR AND
40 RESTORATION OF DAMAGE CAUSED TO PRIVATE PROPERTY OR HIGHWAYS BY THE
41 REPAIR, REPLACEMENT, INSTALLATION, CONSTRUCTION, MAINTENANCE OR OPERATION
42 OF THE VIDEO SERVICE PROVIDER'S FACILITIES IN THE HIGHWAYS AND THAT ARE
43 IMPOSED ON A COMPETITIVELY NEUTRAL AND NONDISCRIMINATORY BASIS IN RELATION
44 TO COSTS BORNE BY TELECOMMUNICATIONS CORPORATIONS UNDER SECTION 9-582,
45 SUBSECTION C.

1 H. ON APPLICATION, A COUNTY SHALL ISSUE TO A VIDEO SERVICE PROVIDER
2 OR ITS AFFILIATE A PERMIT TO ATTACH ALLOWED WI-FI RADIO EQUIPMENT TO THE
3 VIDEO SERVICE NETWORK IN THE HIGHWAYS WITHIN THE BOUNDARIES OF THE COUNTY.
4 THE PERMIT SHALL ALLOW INSTALLATION, OPERATION AND MAINTENANCE OF ALLOWED
5 WI-FI RADIO EQUIPMENT. A COUNTY MAY REQUIRE THAT ALL OF THE ALLOWED WI-FI
6 RADIO EQUIPMENT AT A SINGLE LOCATION FIT WITHIN A FIFTEEN-INCH CUBE AND BE
7 CONTAINED ENTIRELY WITHIN A GROUND-MOUNTED PEDESTAL OR BE CONNECTED
8 DIRECTLY TO AND MOUNTED AT THE SAME HEIGHT AS ONE OF THE VIDEO SERVICE
9 PROVIDER'S AERIAL HORIZONTAL CONDUCTORS. THIS SUBSECTION DOES NOT DO ANY
10 OF THE FOLLOWING:

11 1. PROHIBIT A COUNTY FROM REQUIRING A VIDEO SERVICE PROVIDER TO
12 PLACE UNDERGROUND AERIAL FACILITIES TO WHICH ALLOWED WI-FI EQUIPMENT IS
13 ATTACHED.

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

16 3. AFFECT THE AUTHORITY OF A COUNTY TO MANAGE THE HIGHWAYS WITHIN
17 ITS BOUNDARIES OR TO EXERCISE ITS POLICE POWERS, INCLUDING REVIEW AND
18 APPROVAL OF AN APPLICATION BEFORE ISSUING A PERMIT.

19 4. AFFECT ANY AUTHORITY OF A POLITICAL SUBDIVISION, INCLUDING AN
20 AGRICULTURAL IMPROVEMENT DISTRICT OR ANY OTHER SPECIAL TAXING DISTRICT,
21 THE COUNTY OR ANY OTHER PERSON CONTROLLING UTILITY POLES IN THE HIGHWAYS
22 TO DENY, LIMIT, RESTRICT OR DETERMINE THE TERMS AND CONDITIONS FOR THE USE
23 OF OR ATTACHMENT TO THE UTILITY POLES OR ATTACHMENTS TO OTHER POLES OF THE
24 POLITICAL SUBDIVISION, COUNTY OR OTHER PERSON BY A VIDEO SERVICE PROVIDER.

25 I. THIS SECTION DOES NOT PROHIBIT A VIDEO SERVICE PROVIDER FROM
26 AGREEING WITH A COUNTY TO PROVIDE IN-KIND SERVICES OR GOODS OR MAKE
27 IN-KIND PAYMENTS IN THE SERVICE AREA THAT ARE OTHERWISE PROHIBITED BY THIS
28 SECTION IF THE AGREEMENT WITH THE COUNTY IS NOT ENTERED INTO AS A
29 CONDITION OF OPERATING IN THE SERVICE AREA UNDER A UNIFORM VIDEO SERVICE
30 LICENSE ISSUED PURSUANT TO THIS CHAPTER. THE AGREEMENT MAY AUTHORIZE THE
31 VIDEO SERVICE PROVIDER TO RETAIN LICENSE FEES AND TAXES COLLECTED FROM ITS
32 SUBSCRIBERS IN THE AMOUNT OF ANY OFFSET TO LICENSE FEES SPECIFIED IN THE
33 AGREEMENT.

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

38 11-1943. License fee; requirements; conditions and
39 limitations; pass through to subscribers

40 A. FOR THE PRIVILEGE OF A VIDEO SERVICE PROVIDER TO OCCUPY OR USE,
41 IN WHOLE OR IN PART, ANY HIGHWAY WITHIN THE BOUNDARIES OF A COUNTY TO
42 PROVIDE VIDEO SERVICE THROUGH A VIDEO SERVICE NETWORK, THE COUNTY MAY
43 REQUIRE A VIDEO SERVICE PROVIDER TO PAY A LICENSE FEE TO THE COUNTY BASED
44 ON THE GROSS REVENUE THAT THE VIDEO SERVICE PROVIDER RECEIVES FROM ITS

1 SUBSCRIBERS LOCATED WITHIN THE BOUNDARIES OF THE COUNTY. THE LICENSE FEE
2 BOTH:

3 1. IS SUBJECT TO THE LIMIT PRESCRIBED BY SECTION 11-1942,
4 SUBSECTION B AND TO OFFSET, INCLUDING AMOUNTS COLLECTED FROM SUBSCRIBERS,
5 AS PRESCRIBED BY SECTION 11-1942, SUBSECTIONS A AND I AND SUBSECTION D OF
6 THIS SECTION.

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

8 B. IF THE COUNTY REQUIRES A LICENSE FEE PURSUANT TO SUBSECTION A OF
9 THIS SECTION, THE COUNTY SHALL ADOPT A LOCAL LAW THAT IMPOSES THE LICENSE
10 FEE EQUALLY AND UNIFORMLY ON ALL OF THE FOLLOWING THAT ARE OPERATING
11 WITHIN THE BOUNDARIES OF THE COUNTY:

12 1. VIDEO SERVICE PROVIDERS.

13 2. HOLDOVER CABLE OPERATORS.

14 C. A VIDEO SERVICE PROVIDER SHALL PAY THE ENTIRE AMOUNT OF THE
15 LICENSE FEE DIRECTLY TO THE COUNTY IN A CHECK, DRAFT OR NOTE OR AUTOMATED
16 CLEARINGHOUSE TRANSACTION THAT IS PAYABLE IN LEGAL TENDER AS DEFINED IN
17 SECTION 43-1021.

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

19 1. PASS THE LICENSE FEE THROUGH TO AND COLLECT THE LICENSE FEE FROM
20 ITS SUBSCRIBERS WITHIN THE BOUNDARIES OF THE COUNTY, INCLUDING FOR AN
21 INCUMBENT CABLE OPERATOR ANY CHANGE IN LICENSE FEES THAT RESULTS FROM A
22 CHANGE IN THE APPLICABLE DEFINITION OF GROSS REVENUE.

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

25 11-1944. Ownership of a video service network

26 EXCEPT FOR THE PURPOSES OF ACTING AS AN INTERMEDIARY IN A TRANSFER
27 OF A UNIFORM VIDEO SERVICE LICENSE, A COUNTY MAY NOT OWN A VIDEO SERVICE
28 NETWORK.

29 11-1945. Review and audit; bundling discounts; action to
30 recover underpayment or overpayment

31 A. NOT MORE THAN ONCE EVERY THREE YEARS, A COUNTY, ON REASONABLE
32 WRITTEN NOTICE, MAY AUDIT THE BUSINESS BOOKS AND RECORDS OF A VIDEO
33 SERVICE PROVIDER TO THE EXTENT NECESSARY TO ENSURE PAYMENT OF LICENSE FEES
34 PURSUANT TO THIS CHAPTER. THE COUNTY MAY NOT AUDIT ANY PERIOD THAT ENDS
35 MORE THAN THREE YEARS BEFORE THE DATE THAT THE NOTICE OF AUDIT IS
36 RECEIVED. ANY AUDIT OF A PERIOD OF TIME BEFORE ISSUANCE OF A UNIFORM
37 VIDEO SERVICE LICENSE SHALL BE CONDUCTED PURSUANT TO THE LOCAL LAWS IN
38 EFFECT DURING THE PERIOD OF TIME.

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

42 1. THE METHOD THAT THE VIDEO SERVICE PROVIDER USES TO DETERMINE
43 GROSS REVENUE SUBJECT TO LICENSE FEES BY ALLOCATING THE SINGLE DISCOUNTED
44 PRICE AMONG THE BUNDLE OF VIDEO SERVICE AND NONVIDEO SERVICES SHALL BE

1 REASONABLE AND SUPPORTED BY THE VIDEO SERVICE PROVIDER'S BOOKS AND
2 RECORDS.

3 2. THE COUNTY SHALL ACCEPT AS REASONABLE, FOR PURPOSES OF MEETING
4 THE VIDEO SERVICE PROVIDER'S BURDEN OF PROOF, AN ALLOCATION BASED ON AN
5 OBJECTIVE AND VERIFIABLE METHOD USING THE BOOKS AND RECORDS THAT THE VIDEO
6 SERVICE PROVIDER KEPT IN THE REGULAR COURSE OF BUSINESS FOR OTHER
7 PURPOSES, INCLUDING NONTAX PURPOSES.

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

10 C. THE COUNTY AND THE VIDEO SERVICE PROVIDER SHALL EACH PAY ITS OWN
11 COSTS AND FEES RELATING TO EACH AUDIT PERFORMED PURSUANT TO SUBSECTION A
12 OF THIS SECTION. IF THE SUM DETERMINED TO BE UNDERPAID EXCEEDS FIVE
13 PERCENT OF THE TOTAL FEES THAT THE AUDIT DETERMINES SHOULD HAVE BEEN PAID
14 FOR THE PERIOD, THE VIDEO SERVICE PROVIDER SHALL PAY THE COUNTY'S
15 REASONABLE COSTS OF THE AUDIT.

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

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

22 1. FINDING A PARTICULAR RESULT.

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

25 F. A COMPLAINT BY A COUNTY FOR UNDERPAYMENT OF A LICENSE FEE FROM A
26 VIDEO SERVICE PROVIDER OR BY A VIDEO SERVICE PROVIDER FOR OVERPAYMENT OF A
27 LICENSE FEE TO A COUNTY SHALL BE MADE PURSUANT TO ARTICLE 5 OF THIS
28 CHAPTER.

29 G. A COMPLAINT FOR A VIOLATION OF THE LICENSE FEE OBLIGATIONS UNDER
30 THIS CHAPTER MAY NOT BE MADE UNLESS A WRITTEN DEMAND BY A COUNTY FOR
31 PAYMENT OF THE LICENSE FEES OR A WRITTEN DEMAND BY A VIDEO SERVICE
32 PROVIDER FOR REFUND OF LICENSE FEES IS MADE WITHIN FOUR MONTHS AFTER THE
33 COUNTY OR VIDEO SERVICE PROVIDER REALIZES IT HAS BEEN DAMAGED OR KNOWS OR
34 REASONABLY SHOULD KNOW OF THE DAMAGE CAUSED BY THE ALLEGED VIOLATION.

35 H. A COMPLAINT MUST BE FILED PURSUANT TO ARTICLE 5 OF THIS CHAPTER
36 WITHIN TWO YEARS AFTER THE WRITTEN DEMAND IS MADE PURSUANT TO SUBSECTION G
37 OF THIS SECTION BUT NOT SOONER THAN FOUR MONTHS AFTER THE WRITTEN DEMAND.

38 ARTICLE 5. ENFORCEMENT

39 11-1951. Enforcement; office of administrative hearings; fees

40 A. A COUNTY MAY FILE A WRITTEN COMPLAINT AGAINST A VIDEO SERVICE
41 PROVIDER AND A VIDEO SERVICE PROVIDER MAY FILE A WRITTEN COMPLAINT AGAINST
42 A COUNTY ALLEGING A VIOLATION OF THIS CHAPTER OR THE UNIFORM VIDEO SERVICE
43 LICENSE AGREEMENT. UNLESS OTHERWISE PROVIDED IN SECTION 11-1945,
44 SUBSECTIONS F, G AND H OR THIS SECTION:

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

3 2. THE COMPLAINANT MUST SERVE A COPY OF THE COMPLAINT ON THE PARTY
4 THAT IS THE SUBJECT OF THE COMPLAINT BY PERSONAL DELIVERY OR CERTIFIED
5 MAIL, RETURN RECEIPT REQUESTED, OR BY ANY OTHER METHOD REASONABLY
6 CALCULATED TO EFFECT ACTUAL NOTICE TO THE COUNTY'S LAST ADDRESS OF RECORD
7 FOR THE PARTY THAT IS THE SUBJECT OF THE COMPLAINT.

8 3. THE PARTY THAT IS THE SUBJECT OF THE COMPLAINT MAY FILE A
9 RESPONSE TO THE COMPLAINT WITH THE OFFICE OF ADMINISTRATIVE HEARINGS
10 WITHIN TWENTY DAYS AFTER SERVICE PURSUANT TO PARAGRAPH 2 OF THIS
11 SUBSECTION. RESPONSES SHALL BE SERVED PURSUANT TO PARAGRAPH 2 OF THIS
12 SUBSECTION.

13 B. BEFORE FILING A COMPLAINT PURSUANT TO THIS SECTION BOTH OF THE
14 FOLLOWING APPLY:

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

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

20 C. SUBSECTION B OF THIS SECTION DOES NOT APPLY TO A COMPLAINT MADE
21 IN A WRITTEN DEMAND PURSUANT TO SECTION 11-1945, SUBSECTION G.

22 D. A HEARING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL BE
23 HELD IF A COMPLAINT THAT COMPLIES WITH THIS SECTION IS FILED WITH THE
24 OFFICE OF ADMINISTRATIVE HEARINGS. UNLESS OTHER DEADLINES ARE ESTABLISHED
25 FOR A PARTICULAR COMPLAINT, ALL OF THE FOLLOWING APPLY:

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

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

31 E. THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL PREPARE AND SERVE A
32 NOTICE OF HEARING ON ALL PARTIES AT LEAST ONE MONTH BEFORE THE HEARING
33 THAT STATES THE TIME AND PLACE OF THE HEARING.

34 F. A PREHEARING CONFERENCE MAY BE HELD PURSUANT TO SECTION
35 41-1092.05.

36 G. UNLESS IT CONFLICTS WITH THE REQUIREMENTS OF THIS SECTION, THE
37 HEARING SHALL BE CONDUCTED PURSUANT TO SECTION 41-1092.07.

38 H. THE COMPLAINANT HAS THE BURDEN OF PERSUASION AT A HEARING UNDER
39 THIS SECTION.

40 I. THE DECISION OF THE ADMINISTRATIVE LAW JUDGE IS THE FINAL
41 ADMINISTRATIVE DECISION WITH RESPECT TO THE COMPLAINT. THE OFFICE OF
42 ADMINISTRATIVE HEARINGS SHALL SERVE A COPY OF THE ADMINISTRATIVE LAW
43 JUDGE'S DECISION ON ALL PARTIES. THE FINAL ADMINISTRATIVE DECISION MAY BE
44 APPEALED TO THE SUPERIOR COURT PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.
45 THE SUPERIOR COURT PROCEEDING SHALL BE A TRIAL DE NOVO.

1 J. A PARTY MAY MOVE FOR REHEARING PURSUANT TO SECTION 41-1092.09,
2 AND THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL RULE ON THE MOTION.
3 MOVING FOR REHEARING OR REVIEW IS NOT NECESSARY FOR THE PARTY TO SEEK
4 JUDICIAL REVIEW OF THE DECISION OF THE ADMINISTRATIVE LAW JUDGE UNDER
5 SUBSECTION I OF THIS SECTION.

6 K. SERVICE IS COMPLETE ON PERSONAL SERVICE OR FIVE DAYS AFTER THE
7 DATE THAT THE OFFICE OF ADMINISTRATIVE HEARINGS MAILES THE FINAL
8 ADMINISTRATIVE DECISION TO EACH PARTY'S LAST KNOWN ADDRESS OF RECORD WITH
9 THE COUNTY.

10 L. THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ADOPT RULES PURSUANT
11 TO TITLE 41, CHAPTER 6 TO ADMINISTER HEARINGS UNDER THIS CHAPTER AND TITLE
12 9, CHAPTER 13. THE RULES SHALL APPLY UNIFORMLY TO HEARINGS INVOLVING
13 LOCAL GOVERNMENTS AS DEFINED IN SECTION 9-1401 AND COUNTIES.

14 M. THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ESTABLISH,
15 ADMINISTER AND COLLECT FEES IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR
16 OF THE OFFICE OF ADMINISTRATIVE HEARINGS. THE DIRECTOR SHALL DEPOSIT,
17 PURSUANT TO SECTIONS 35-146 AND 35-147, ALL MONIES IN THE VIDEO SERVICE
18 PROVIDER COMPLAINT FUND ESTABLISHED BY SECTION 9-1451, SUBSECTION N.

19 11-1952. Statute of limitations; costs and attorney fees;
20 federal subscriber service requirements

21 A. EXCEPT AS PROVIDED IN SECTION 11-1945, SUBSECTIONS F, G AND H, A
22 COMPLAINT UNDER THIS ARTICLE MUST BE FILED WITHIN TWO YEARS AFTER THE
23 COMPLAINANT REALIZES IT HAS BEEN DAMAGED AND KNOWS OR REASONABLY SHOULD
24 KNOW THE CAUSE, SOURCE, ACT, EVENT, INSTRUMENTALITY OR CONDITION THAT
25 CAUSED OR CONTRIBUTED TO THE ALLEGED VIOLATION.

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

28 C. THIS ARTICLE DOES NOT APPLY TO CLAIMS THAT A VIDEO SERVICE
29 PROVIDER HAS FAILED TO MEET SUBSCRIBER SERVICE STANDARDS PRESCRIBED BY
30 SECTION 11-1933, SUBSECTION B, PARAGRAPH 5 OR HAS VIOLATED TITLE 44,
31 CHAPTER 10, ARTICLE 7. CLAIMS OF VIOLATIONS OF FEDERAL SUBSCRIBER SERVICE
32 STANDARDS SHALL BE MADE PURSUANT TO THE PROCEDURE ESTABLISHED UNDER
33 FEDERAL LAW.

34 Sec. 9. Section 41-1092.01, Arizona Revised Statutes, is amended to
35 read:

36 41-1092.01. Office of administrative hearings; director;
37 powers and duties; fund

38 A. An office of administrative hearings is established.

39 B. The governor shall appoint the director pursuant to section
40 38-211. At a minimum, the director shall have the experience necessary
41 for appointment as an administrative law judge. The director also shall
42 possess supervisory, management and administrative skills, as well as
43 knowledge and experience relating to administrative law.

44 C. The director shall:

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

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

3 3. Subject to chapter 4, article 4 of this title, hire employees,
4 including full-time administrative law judges, and contract for special
5 services, including temporary administrative law judges, that are
6 necessary to carry out this article. An administrative law judge employed
7 or contracted by the office shall have graduated from an accredited
8 college of law or shall have at least two years of administrative or
9 managerial experience in the subject matter or agency section the
10 administrative law judge is assigned to in the office.

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

13 5. Submit a report to the governor, speaker of the house of
14 representatives and president of the senate by November 1 of each year
15 describing the activities and accomplishments of the office. The
16 director's annual report shall include a summary of the extent and effect
17 of agencies' utilization of administrative law judges, court reporters and
18 other personnel in proceedings under this article and recommendations for
19 changes or improvements in the administrative procedure act or any
20 agency's practice or policy with respect to the administrative procedure
21 act. [THE DIRECTOR SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF](#)
22 [STATE.](#)

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

26 7. Develop, implement and maintain a program for the continuing
27 training and education of administrative law judges and agencies in regard
28 to their responsibilities under this article. The program shall require
29 that an administrative law judge receive training in the technical and
30 subject matter areas of the sections to which the administrative law judge
31 is assigned.

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

35 9. Annually report the following to the governor, the president of
36 the senate and the speaker of the house of representatives [AND PROVIDE A](#)
37 [COPY OF THIS REPORT TO THE SECRETARY OF STATE](#) by December 1 for the prior
38 fiscal year:

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

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

1 (c) By agency, the number and type of violations of section
2 41-1009.

3 10. Schedule hearings pursuant to section 41-1092.05 ~~upon~~ ON the
4 request of an agency or the filing of a notice of appeal pursuant to
5 section 41-1092.03.

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

8 E. Except as provided in subsection F of this section, all state
9 agencies supported by state general fund sources, unless exempted by this
10 article, and the registrar of contractors shall use the services and
11 personnel of the office to conduct administrative hearings. All other
12 agencies shall contract for services and personnel of the office to
13 conduct administrative hearings.

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

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

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

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

28 2. The director shall establish the subject matter and agency
29 sections within the office that are necessary to carry out this
30 article. Each subject matter and agency section shall provide training in
31 the technical and subject matter areas of the section as prescribed in
32 subsection C, paragraph 7 of this section.

33 I. If the office cannot furnish an office administrative law judge
34 promptly in response to an agency request, the director may contract with
35 qualified individuals to serve as temporary administrative law judges.
36 These temporary administrative law judges are not employees of this state.

37 J. The office may provide administrative law judges on a contract
38 basis to any governmental entity to conduct any hearing not covered by
39 this article. The director may enter into contracts with political
40 subdivisions of this state, and these political subdivisions may contract
41 with the director for the purpose of providing administrative law judges
42 and reporters for administrative proceedings or informal dispute
43 resolution. The contract may define the scope of the administrative law
44 judge's duties. Those duties may include the preparation of findings,
45 conclusions, decisions or recommended decisions or a recommendation for

1 action by the political subdivision. For these services, the director
2 shall request payment for services directly from the political subdivision
3 for which the services are performed, and the director may accept payment
4 on either an advance or reimbursable basis.

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

8 L. The office shall receive complaints against A COUNTY, a local
9 government AS DEFINED IN SECTION 9-1401 or a video service provider as
10 defined in section 9-1401 OR 11-1901 and shall comply with the duties
11 imposed on the office pursuant to title 9, chapter 13 FOR COMPLAINTS
12 INVOLVING LOCAL GOVERNMENTS AND TITLE 11, CHAPTER 14 FOR COMPLAINTS
13 INVOLVING COUNTIES.

14 Sec. 10. Legislative findings

15 The legislature has determined that it is reasonable and necessary
16 to promote a matter of statewide concern by regulating the licensure and
17 provision of video service to promote all of the following:

18 1. Provision of competitive video, telecommunications and
19 information service throughout this state.

20 2. More uniform regulation of competitive video service throughout
21 the state.

22 3. Streamlined licensing by local governments and counties.

23 4. More uniform terms and conditions for video service providers
24 that use highways to provide video and other services over video service
25 networks.

26 5. Continued highway management by local governments and counties
27 with reasonable burdens on video service providers for construction and
28 maintenance across boundaries.

29 6. Continued levying of license fees by local governments and
30 counties on subscriber service revenues derived from operating video
31 service networks to provide video service.

32 7. Support for federal subscriber service standards.

APPROVED BY THE GOVERNOR APRIL 11, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2019.