

Chapter 484

TELEPHONE, TELEGRAPH, AND RADIO

TELEPHONE AND MESSENGER SERVICE COMPANIES

Act 129 of 1883

AN ACT for the organization of telephone and messenger service companies.

History: 1883, Act 129, Imd. Eff. May 31, 1883

The People of the State of Michigan enact:

484.1 Incorporators; signing, filing, form, and contents of articles of incorporation; provisions governing corporation.

Sec. 1.

(1) One or more persons may be the incorporators of a corporation under this act by signing in ink and filing articles of incorporation for the corporation which shall be in the form prescribed by section 202 of Act No. 284 of the Public Acts of 1972, being section 450.1202 of the Michigan Compiled Laws. The articles shall specify that the purpose is to form a telephone corporation for profit and to engage in the telephone business.

(2) A corporation organized under this act shall be governed by Act No. 284 of the Public Acts of 1972, as amended, being sections 450.1101 to 450.2099 of the Michigan Compiled Laws.

History: 1883, Act 129, Imd. Eff. May 31, 1883 ;-- How. 3718a ;-- CL 1897, 6688 ;-- CL 1915, 8788 ;-- CL 1929, 11690 ;-- CL 1948, 484.1 ;-- Am. 1959, Act 194, Eff. Mar. 19, 1960 ;-- Am. 1978, Act 63, Imd. Eff. Mar. 14, 1978

484.2, 484.3 Repealed. 1978, Act 63, Imd. Eff. Mar. 14, 1978.

Compiler's Notes: The repealed sections pertained to powers, election, term, and qualifications of directors, and to shares of stock.

484.4 Construction of line; restrictions; condemnation; purchase of stock; holding of realty.

Sec. 4.

Every such corporation shall have power to construct and maintain lines of wire or other material, for use in the transmission of telephonic messages along, over, across, or under any public places, streets and highways, and across or under any of the waters in this state, with all necessary erections and fixtures therefor: Provided, That the same shall not injuriously interfere with other public uses of the said places, streets and highways, or injure any trees located along the line of such streets or highways nor shall the same interfere with the navigation of said waters, or the running of railway trains; to construct, provide and furnish instruments, devices, and facilities for use in the transmission of such messages, and to construct, maintain and operate telephone exchanges and stations, and generally to conduct and carry on the business of providing and supervising communication by telephone, and also the business of furnishing messenger service in cities and towns: Provided further, That whenever any corporation organized under the provisions of this act for the purpose of constructing any public telephone line in the upper peninsula of this state finds it impracticable to construct its said lines upon any of the public places, streets and highways and across or under any waters in this state, on account of which it may desire to acquire any right of way for its said lines over, through, under and across any lands needed therefor, and is unable to agree with the owner

of such lands for the purchase of said right of way, such corporation shall have the right to acquire the title to said right of way, outside of the corporate limits of cities and villages, upon making just compensation to the owner of such lands, in the same manner and by the same proceedings as provided for in chapter 164 of the Compiled Laws of 1897 of this state for the condemnation of lands for right of way by railway companies: Provided further, that whenever the owner of any lands which are not traversed by any railway objects to having any telephone company run its line of right of way across his lands at any point, then the said telephone company shall confine its line of right of way to established subdivision lines. Whenever the owner of any lands which are traversed by any railway shall object to having any telephone company run its line of right of way across his lands at any point then the said telephone company shall confine its line of right of way to established subdivision lines or immediately adjoining and along the right of way of said railway. And it shall be lawful for any such corporation to purchase and hold a portion of the stock of any corporation owning or controlling by patent, or otherwise, the use of any instrument or device necessary or convenient for use, in the transmission or reception of telephonic messages, and to purchase and hold all real property necessary to carry out the purposes of its organization.

History: 1883, Act 129, Imd. Eff. May 31, 1883 ;-- How. 3718d ;-- CL 1897, 6691 ;-- Am. 1899, Act 16, Imd. Eff. Mar. 9, 1899 ;-- CL 1915, 8791 ;-- CL 1929, 11693 ;-- CL 1948, 484.4

Compiler's Notes: For provisions of chapter 164, referred to in this section, see MCL 463.1 et seq.

484.6 Injury to property; penalty.

Sec. 6.

Any person who shall unlawfully injure or molest any line of wire or property of any such corporation, appurtenant thereto, or any of the instruments or apparatus of such corporation, shall on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding 100 dollars, or imprisonment in the county jail not exceeding 3 months, or both, in the discretion of the court in which such conviction shall be had.

History: 1883, Act 129, Imd. Eff. May 31, 1883 ;-- How. 3718f ;-- CL 1897, 6693 ;-- CL 1915, 8792 ;-- CL 1929, 11694 ;-- CL 1948, 484.6

484.7 Conversion into limited liability company; requirements; "business organization" defined.

Sec. 7.

(1) A telephone corporation formed under this act may convert into a domestic limited liability company if the telephone corporation satisfies the requirements applicable to the conversion of a business organization into a domestic limited liability company under section 709 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4709. A telephone corporation that converts into a domestic limited liability company under this subsection is treated as a corporation for state income tax filing purposes as provided under section 339 of the income tax act of 1967, 1967 PA 281, MCL 206.339, unless that converted entity is a disregarded entity for federal income tax filing purposes under the internal revenue code and its regarded owner is treated as a corporation for state and federal income tax purposes.

(2) As used in this section, "business organization" means that term as defined in section 705a of the Michigan limited liability company act, 1993 PA 23, MCL 450.4705a.

History: Add. 2024, Act 174, Imd. Eff. Dec. 23, 2024

Compiler's Notes: Former MCL 484.7, which pertained to stockholder's liability for corporate debts, was repealed by Act 63 of 1978, Imd. Eff. Mar. 14, 1978.

484.8 Governing laws.

Sec. 8.

Every corporation organized hereunder shall be subject to the provisions of chapter 130 of the Compiled Laws of 1871, so far as applicable, and of Act No. 168 of the session laws of 1881, approved May 26, 1881, entitled "An act to provide for the assessment of and taxation of telegraph and telephone lines within the state of Michigan and to repeal Act No. 77 of the session laws of 1879, approved May twentieth, 1879."

History: 1883, Act 129, Imd. Eff. May 31, 1883 ;-- How. 3718h ;-- CL 1897, 6695 ;-- CL 1915, 8794 ;-- CL 1929, 11696 ;-- CL 1948, 484.8

Compiler's Notes: Chapter 130, referred to in this section, contained the following provisions which have not been repealed or reenacted: MCL 450.504 to 450.525. Act 168 of 1881, referred to in this section, was superseded by MCL 207.1 et seq.

484.9 Lines in lower peninsula; location.

Sec. 9.

Whenever any corporation organized under the provisions of this act shall desire to construct a line of public telephones in the lower peninsula of this state, the same shall in all cases, when not located upon the public places, streets and highways of the said lower peninsula, or within the corporate limits of cities and villages, be located along side of and adjacent to the railway right of way in cases where the railway right of way lies adjacent to the lands sought to be acquired.

History: Add. 1899, Act 93, Imd. Eff. May 31, 1899 ;-- CL 1915, 8795 ;-- CL 1929, 11697 ;-- CL 1948, 484.9

484.10 Condemnation; procedure, restrictions.

Sec. 10.

Whenever any such corporation shall desire to acquire a right of way over, through, under or across any lands which may be adjacent to the right of way of any railway operated by steam power, and is unable to agree with the owner or owners of such lands for the purchase of said right of way such corporation shall have the right to acquire the title of said right of way, outside the corporate limits of cities and villages, in the same manner and by the same proceedings as are provided for in chapter 164 of the Compiled Laws of 1897 of this state, providing for the condemnation of lands for right of way by railroad companies: Provided, That the owner or owners of the lands over which any such right of way shall be acquired shall have the right to occupy and use the same, but such occupancy and use shall not be to the injury of the property of such corporation situated upon such right of way: Provided, The strip of land so condemned shall not exceed 10 feet in width, together with the right to set and maintain outside of the same guy posts and anchors reasonably requisite to the proper construction and maintenance of a pole line thereon: Provided further, however, That the right to set guy posts and anchors outside such 10 foot strip shall be acquired in the manner hereinbefore described: Provided further, That the provisions of this act will not apply to such land located within 5 miles of the corporate limits of any city having a population of 250,000 or more.

History: Add. 1899, Act 93, Imd. Eff. May 31, 1899 ;-- CL 1915, 8796 ;-- Am. 1923, Act 125, Eff. Aug. 30, 1923 ;-- CL 1929, 11698 ;-- CL 1948, 484.10

Compiler's Notes: For provisions of chapter 164, referred to in this section, see MCL 463.1 et seq.

TELEPHONE SERVICE

Act 72 of 1883

484.51 Repealed. 1991, Act 179, Eff. Jan. 1, 1992.

TELEPHONE COMPANIES AS COMMON CARRIERS

Act 206 of 1913

AN ACT to declare telephone lines and telephone companies within this state to be common carriers; to regulate the telephone business; to confer certain powers, duties, and responsibilities on the public service commission; to provide for the consolidation of telephone lines and telephone companies; to prohibit certain uses of telephone lines and telephone equipment; to regulate persons using telephone lines and telephone equipment; to prescribe a penalty for the violation of this act; and to repeal certain acts and parts of acts on specific dates.

History: 1913, Act 206, Eff. Aug. 14, 1913 ;-- Am. 1980, Act 47, Imd. Eff. Mar. 19, 1980 ;-- Am. 1986, Act 305, Imd. Eff. Dec. 23, 1986

The People of the State of Michigan enact:

484.101-484.103f Repealed. 1991, Act 179, Eff. Jan. 1, 1992.

Compiler's Notes: The repealed sections pertained to the duties, powers, and responsibilities of the PSC in regulating telephone service in competitive markets, basic local exchange service, resale of services, franchise cable companies, and alternative operator service.

484.103g Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's Notes: The repealed section pertained to alternative operator service providers.

484.104-484.114 Repealed. 1991, Act 179, Eff. Jan. 1, 1992.

Compiler's Notes: The repealed sections pertained to the prohibiting of discriminatory and preferential service; the regulation of connecting, sale or leasing, constructing, and setting rates for lines; and providing complaint and hearing procedures.

484.115-484.118 Repealed. 1987, Act 5, Eff. Apr. 1, 1987.

Compiler's Notes: The repealed sections pertained to judicial review of orders.

484.119-484.124 Repealed. 1991, Act 179, Eff. Jan. 1, 1992.

Compiler's Notes: The repealed sections pertained to reporting, recordkeeping, and public inspection of records and prescribed penalties for violation of the act.

484.125 Delivering commercial advertising by recorded message; transfer, assignment, or sale of authorization to contact subscriber; evidence of intention to violate act; action for damages; reporting violations; use of automatic dialing equipment; termination of call; violation as misdemeanor; penalty.

Sec. 25.

(1) As used in this section:

(a) "Caller" means an individual, corporation, firm, partnership, association, or legal or commercial entity who attempts to contact or who contacts a subscriber in this state via telephone or by using a telephone line.

(b) "Caller identification information" means the telephone number from which the call originates or the name of the individual, corporation, partnership, association, or other legal entity subscribing to that telephone number.

(c) "Intrastate" means originating and delivering within this state.

(d) "Subscriber" means an individual who has subscribed to residential, business, or toll-free telephone service from a telephone company regulated by this state, and all other persons with the same legal residence as the subscribing individual.

(2) A caller shall not use a telephone line to contact a subscriber at the subscriber's residence, business, or toll-free telephone number to do either of the following:

(a) Deliver a recorded message for the purpose of presenting commercial advertising to the subscriber, unless either of the following occurs:

(i) The subscriber has knowingly and voluntarily requested, consented, permitted, or authorized the contact from the caller.

(ii) The subscriber has knowingly and voluntarily provided his or her telephone number to the caller.

(b) Deliver or attempt to deliver intrastate commercial advertising if the caller activates a feature to block the display of caller identification information that would otherwise be available to the subscriber.

(3) The authorization to contact a subscriber granted under subsection (2)(a)(i) shall not be transferred, assigned, or sold without the written permission of the subscriber.

(4) The use of automated dialing, push button, or tone activated devices which operate sequentially or are otherwise unable to avoid contacting subscribers who have not authorized the contact as provided in subsection (2) is prima facie evidence of an intention to violate this act.

(5) A subscriber contacted by a caller in violation of this section may bring an action to recover damages of \$1,000.00, together with reasonable attorneys' fees.

(6) An employee or officer of a telephone company shall report a person whom the employee or officer in good faith believes may be violating or has violated this act. Alleged violations of this act shall be reported to the county prosecutor for the county in which the violation occurred.

(7) This section does not prohibit the use of automatic dialing equipment for the purpose of advising customers concerning merchandise or goods or services previously ordered.

(8) Recorded commercial advertising that is authorized under this section must end or otherwise free the subscriber's telephone line for incoming and outgoing calls immediately upon the subscriber's termination of the call.

(9) A caller who violated this section is guilty of a misdemeanor, punishable by a fine of \$1,000.00 or imprisonment for 10 days, or both.

History: Add. 1980, Act 47, Imd. Eff. Mar. 19, 1980 ;-- Am. 1998, Act 234, Eff. Mar. 23, 1999 ;-- Am. 1998, Act 253, Eff. Mar. 23, 1999

484.126 Repealed. 1991, Act 179, Eff. Jan. 1, 1992.

Compiler's Notes: The repealed section pertained to repeal of MCL 484.101 to 484.103b and MCL 484.103d to 484.126.

TELEGRAPH COMPANIES

Act 59 of 1851

AN ACT to authorize the formation of telegraph companies.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851

The People of the State of Michigan enact:

484.151 Telegraph companies; incorporators.

Sec. 1.

That any number of persons may associate for the purpose of constructing a line of wires of telegraph through this state, or from and to any point within this state, upon such terms and conditions, and subject to the liabilities prescribed in this act.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2049 ;-- CL 1871, 2625 ;-- How. 3693 ;-- CL 1897, 6667 ;-- CL 1915, 8767 ;-- CL 1929, 11663 ;-- CL 1948, 484.151

484.152 Telegraph companies; certificate of organization, contents, filing.

Sec. 2.

Such persons, under their hands and seals, shall make a certificate which shall specify:

1st. The name assumed to distinguish such association, and to be used in its dealings, and by which it may sue and be sued;

2nd. The general route of the line of telegraph, designating the points to be connected;

3rd. The capital stock of such association, and the number of shares into which the stock shall be divided;

4th. The names and places of residence of the shareholders, and the number of shares held by each of them respectively;

5th. The term of its existence, not to exceed 30 years; which certificate shall be proved or acknowledged, and recorded in the office of the clerk of the county where any office of such association shall be established, and a copy thereof filed in the office of the secretary of state; such acknowledgment may be taken by any officer authorized to take the acknowledgment of deeds of real estate, at the place where such acknowledgment is taken.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2050 ;-- CL 1871, 2626 ;-- How. 3694 ;-- CL 1897, 6668 ;-- CL 1915, 8768 ;-- CL 1929, 11664 ;-- CL 1948, 484.152

484.153 Body corporate; certified copy of certificate as evidence.

Sec. 3.

Upon complying with the provisions of the last preceding section, such association shall be, and hereby is declared to be a body corporate, by the name designated in said certificate, and a copy of said certificate duly certified by the clerk of the county where the same is filed and recorded, or by the secretary of state, may be used as evidence in all courts and places, for and against any such association.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2051 ;-- CL 1871, 2627 ;-- How. 3695 ;-- CL 1897, 6669 ;-- CL 1915, 8769 ;--

484.154 Power to hold realty; officers and agents; rules and by-laws.

Sec. 4.

Such association shall have power to purchase, receive and hold and convey such real estate, and such only, as may be necessary for the convenient transaction of the business, and for effectually carrying on the operations of such association, and may appoint such directors, officers and agents, and make such prudential rules, regulations and by-laws as may be necessary in the transaction of their business, not inconsistent with the laws of this state or of the United States. But this section shall not be so construed as to authorize any such association to hold any real estate except such as shall be actually occupied by such association in the exercise of its franchises.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2052 ;-- CL 1871, 2628 ;-- How. 3696 ;-- CL 1897, 6670 ;-- CL 1915, 8770 ;-- CL 1929, 11666 ;-- CL 1948, 484.154

484.155 Telegraph lines; construction, restrictions.

Sec. 5.

Such association is authorized to enter upon, and construct, and maintain lines of telegraph through, along, and upon any of the public roads and highways, or across or under any of the waters within the limits of this state, by the erection of the necessary fixtures, including posts, piers, or abutments for sustaining the cords or wires of such lines: Provided, That the same shall not be so constructed as to incommode the public use of said roads or highways, or injuriously interrupt the navigation of said waters; nor shall this act be so construed as to authorize the construction of any bridge across any of the waters of this state: And provided, further, That this act shall not be construed to authorize any such association to injure, deface, tear, cut down, or destroy any tree or shrub planted along the margin of any highway in this state, or purposely left there for shade or ornament. Said association, instead of running or placing their wires on posts, may, if they choose, run or place the same under ground, with a suitable or proper covering for the protection of the same; and any part of this act, or any law made or to be made, providing for the appraisal of damages to any person injured by the construction or maintenance of such line or lines, shall be construed to include damages occasioned by the construction of said lines under ground, as provided by this act.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2053 ;-- Am. 1863, Act 240, Eff. June 22, 1863 ;-- CL 1871, 2629 ;-- Am. 1873, Act 28, Eff. July 31, 1873 ;-- Am. 1875, Act 129, Imd. Eff. Apr. 27, 1875 ;-- How. 3697 ;-- CL 1897, 6671 ;-- CL 1915, 8771 ;-- CL 1929, 11667 ;-- CL 1948, 484.155

484.156 Aggrieved property owner; remedy, procedure.

Sec. 6.

If any person over or through whose lands said lines shall pass, upon which said posts, piers or abutments shall be placed, or through whose lands said lines shall be run under ground, shall consider himself aggrieved or damaged thereby, it shall be the duty of the circuit court of the county within which said lands are, on the application of such person, and on notice to said association (to be served on the president or any director), to appoint 3 discreet and disinterested persons as commissioners, who shall severally take an oath before any person authorized to administer oaths, faithfully and impartially to perform the duties required of them by this act; and it shall be the duty of said commissioners, or a majority of them, to make a just and equitable appraisal of all the loss or damages sustained by said applicant by reason of said lines, posts, piers, or abutments, which appraisal shall be in writing, signed by said commissioners or a majority of them, and filed in the office of the clerk of said court. Said report or appraisal may

be confirmed by said court at any term thereof, and the court shall appoint some day when it will consider said report or appraisal and objections against the confirmation thereof on the part of all parties interested therein, notice of which day shall be given to said association by service thereof on the president or any director. Said objections shall be as to matters of substance, and shall be filed with the clerk of said court, in writing, but may be argued, and the hearing of said report and objections may be adjourned from time to time until said report or appraisal be confirmed or otherwise disposed of. Upon the confirmation of said report or appraisal, in case any damages be adjudged to said applicant, such association shall pay the amount thereof with costs of such appraisal; said costs to be liquidated and ascertained on said award. In case no damages shall be reported to have been sustained by such applicant, and the report thereof being confirmed said applicant shall thereafter be held to have sustained no loss or damage by reason of said lines. In case said report or appraisal shall not be confirmed, it shall not prejudice the right of such applicant to renew his application. Said commissioners shall receive for their services 2 dollars for each day they are actually engaged in making such appraisal.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2054 ;-- Am. 1863, Act 240, Eff. June 22, 1863 ;-- CL 1871, 2630 ;-- How. 3698 ;-- CL 1897, 6672 ;-- CL 1915, 8772 ;-- CL 1929, 11668 ;-- CL 1948, 484.156

484.157 Injury to line; penalty.

Sec. 7.

Any person who shall unlawfully or intentionally injure, molest, or destroy any of said lines, posts, piers or abutments, or the materials or property belonging thereto, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding 500 dollars, or imprisonment in the county jail, not exceeding 1 year, or both, at the discretion of the court before which the conviction shall be had.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2055 ;-- CL 1871, 2631 ;-- How. 3699 ;-- CL 1897, 6673 ;-- CL 1915, 8773 ;-- CL 1929, 11669 ;-- CL 1948, 484.157

484.158 Stockholder's liability for corporate debts; contribution.

Sec. 8.

The stockholders of every association organized in pursuance of this act, shall be jointly and severally, individually liable for the payment of all debts and demands for labor performed, and materials furnished for such association, which shall be contracted, or which shall be, or shall become due during the time of their holding such stock; but no stockholder shall be proceeded against for the collection of any such debt or demand against such association, until judgment thereon shall have been obtained against the association, and an execution returned unsatisfied in whole or in part, or unless such association shall be dissolved; and every stockholder against whom any such recovery shall have been had for labor and materials furnished, shall have the right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of stock they shall respectively hold.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2056 ;-- CL 1871, 2632 ;-- Am. 1875, Act 149, Imd. Eff. Apr. 28, 1875 ;-- How. 3700 ;-- CL 1897, 6674 ;-- CL 1915, 8774 ;-- CL 1929, 11670 ;-- CL 1948, 484.158

484.159 Annual report; contents; failure to make, liability of directors.

Sec. 9.

Every such corporation shall, annually, within 10 days from the first of January, make a report which shall state the amount of capital and the amount actually paid in, the investment of any portion of the earnings of such

company in its business, and the whole amount of money which has at any time been borrowed and then remaining unpaid; the commencement, general route, termination and length of the lines of the wires of such company, and the names of the places through which they pass; which report shall be signed by the president and a majority of the directors, and shall be verified by the oath of the president or secretary of such corporation, and filed in the office of the clerk of the county in which the business of any such company is carried on, and a duplicate thereof in the office of the secretary of state; and if any such company shall fail so to do, all the directors thereof shall be jointly and severally liable for all the debts of the company then existing, and that shall be contracted before such report shall be made.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2057 ;-- CL 1871, 2633 ;-- How. 3701 ;-- CL 1897, 6675 ;-- CL 1915, 8775 ;-- CL 1929, 11671 ;-- CL 1948, 484.159

484.160 Annual tax; in lieu of other state taxes.

Sec. 10.

All corporations formed under this act shall pay to the treasurer of the state of Michigan an annual tax of 1 per centum on the whole amount of capital actually paid in, and any investment of the earnings of any such company in their business, shall be considered as so much capital paid in; also, upon all sums of money at any time borrowed by any such company and then remaining unpaid in whole or in part; which tax shall be paid on the first Monday of February in each year, and shall be estimated upon the report of such company for that year, made as required by section 9 of this act; and such tax shall be in lieu of all state taxes upon the real and personal estate of such company.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2058 ;-- CL 1871, 2634 ;-- How. 3702 ;-- CL 1897, 6676 ;-- CL 1915, 8776 ;-- CL 1929, 11672 ;-- CL 1948, 484.160

484.161 Shares of stock; status as personalty, transfer, purchase in other corporations.

Sec. 11.

The stock of any such corporation shall be deemed personal estate, and shall be transferable in such a manner as shall be prescribed by the by-laws of the company; but no transfer shall be valid for any purpose whatever except to render the person to whom it shall be transferred liable for the debts of such company, according to the provisions of this act, until the same shall have been entered upon the books of the corporation, so as to show the names of the parties, by and to whom transferred, the number and designation of the shares, and the date of the transfer, and no shares shall be transferable until all previous calls or assessments thereon shall have been fully paid in, or shall have been declared forfeited for the non-payment of calls thereon. It shall not be lawful for any such corporation to use any of their funds in the purchase of, or in any manner to purchase stock in any other corporation.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2059 ;-- CL 1871, 2635 ;-- How. 3703 ;-- CL 1897, 6677 ;-- CL 1915, 8777 ;-- CL 1929, 11673 ;-- CL 1948, 484.161

484.163 Books; inspection, use as evidence; penalty, forfeiture.

Sec. 13.

It shall be the duty of the directors of every such corporation or company to cause books to be kept by the treasurer or secretary or other officers thereof, containing the names of all persons, alphabetically arranged, who are or shall within 6 years have been stockholders of such company, and showing their place of residence, the

number of shares of stock held by them respectively, and the time when they respectively became owners of such shares, and the amount of stock actually paid in; which book shall be kept open in the principal office of every such company in every county in which such company transact [sic] business, for the inspection of stockholders and creditors of such company and their personal representatives; and any and every such person shall have a right to make extracts from any such book. Such books shall be presumptive evidence of the facts therein stated in favor of the plaintiff, in any suit or proceeding against such company, or against any 1 or more stockholders. Every officer or agent of any such company, who shall fail or neglect to make any proper entry in any such book, or shall neglect or refuse to exhibit the same, or allow the same to be inspected, and extracts to be taken therefrom as provided by this section, shall be deemed guilty of a misdemeanor, and the company shall forfeit and pay to the party injured a penalty of 50 dollars for every such neglect or refusal, or for neglecting to keep such books open for inspection as aforesaid.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2061 ;-- CL 1871, 2637 ;-- How. 3705 ;-- CL 1897, 6679 ;-- CL 1915, 8778 ;-- CL 1929, 11674 ;-- CL 1948, 484.163

484.164 Transmission of dispatches; penalty.

Sec. 14.

It shall be the duty of the owner or association owning any telegraph line, doing business within this state, to receive dispatches from and for other telegraph lines and associations, and from and for any individual, and on payment of their usual charges for individuals for transmitting dispatches, as established by the rules and regulations of such telegraph line, to transmit the same with impartiality and good faith, under the penalty of 100 dollars for every neglect or refusal so to do, to be recovered, with costs of suit, in the name and for the benefit of the person or persons sending or desiring to send such dispatch.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2062 ;-- CL 1871, 2638 ;-- How. 3706 ;-- CL 1897, 6680 ;-- CL 1915, 8779 ;-- CL 1929, 11675 ;-- CL 1948, 484.164

484.165 Transmission of dispatches; order of transmission; penalty.

Sec. 15.

It shall likewise be the duty of every such owner or association, to transmit all dispatches in the order in which they are received, under the like penalty of 100 dollars, to be recovered, with costs of suit, by the person or persons whose dispatch is postponed out of its order, as herein prescribed; Provided, however, That arrangements may be made with the proprietors or publishers of newspapers, for the transmission for the purpose of publication of intelligence of general and public interest, out of its regular order.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2063 ;-- CL 1871, 2639 ;-- How. 3707 ;-- CL 1897, 6681 ;-- CL 1915, 8780 ;-- CL 1929, 11676 ;-- CL 1948, 484.165

484.166 Divulging contents; willful failure to transmit; penalty, civil liability.

Sec. 16.

Any person connected with any telegraph company in this state or connected with any such company transacting business in this state, either as clerk, operator, messenger, or in any other capacity, who shall willfully or negligently divulge the contents or the nature of the contents of any private communication entrusted for transmission or delivery to the agent, clerk, operator, messenger, or other person in the employ of such company, or who shall

willfully refuse or neglect to transmit or deliver the same, shall, on conviction before any court, be adjudged guilty of a misdemeanor and shall suffer imprisonment in the county jail where such conviction shall be had, for a term not exceeding 6 months, or shall pay a fine not exceeding 500 dollars, in the discretion of the court; and such company shall be liable to the party aggrieved for all damages sustained thereby.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2064 ;-- CL 1871, 2640 ;-- How. 3708 ;-- CL 1897, 6682 ;-- CL 1915, 8781 ;-- CL 1929, 11677 ;-- CL 1948, 484.166

484.167 State's lien for taxes; sale; surplus.

Sec. 17.

The state shall have a lien upon any line constructed under this act, and its appurtenances, and for all taxes which may accrue thereon to the state, by virtue of the provisions of this act, which shall have precedence of all other liens; and in case the tax or any part thereof shall remain unpaid at the time hereinbefore provided for its payment, then the state treasurer shall have power, and it is hereby made his duty, to advertise such line for sale for the amount of such tax remaining unpaid, in some newspaper published in the city of Detroit, by giving 3 weeks' previous notice, and to sell the same accordingly for the amount of tax and interest and charges of sale: Provided, The same shall not be paid before the time of sale, and the surplus money, if any, shall be paid to the owner or owners of such line.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2065 ;-- CL 1871, 2641 ;-- How. 3709 ;-- CL 1897, 6683 ;-- CL 1915, 8782 ;-- CL 1929, 11678 ;-- CL 1948, 484.167

484.168 Amendment or repeal of act.

Sec. 18.

The legislature may at any time alter, amend or repeal this act, and any such alteration or amendment shall act as an alteration or amendment of the corporate rights of all companies formed, created, organized or at any time doing business under its provisions; or they may annul or repeal any corporation formed under this act; but such alteration, amendment, annulling or repeal shall not, nor shall the dissolution of any such company, take away or impair any remedy given for or against any such corporation, its stockholders or officers for any right acquired or liability which shall have been previously incurred.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2066 ;-- CL 1871, 2642 ;-- How. 3710 ;-- CL 1897, 6684 ;-- CL 1915, 8783 ;-- CL 1929, 11679 ;-- CL 1948, 484.168

484.169 Immediate effect.

Sec. 19.

This act shall take effect immediately.

History: 1851, Act 59, Imd. Eff. Mar. 20, 1851 ;-- CL 1857, 2066 ;-- CL 1871, 2642 ;-- CL 1915, 8784 ;-- CL 1929, 11680 ;-- CL 1948, 484.169

484.170 Appraisal of damages; lands in more than 1 county.

Sec. 20.

When any person owning or occupying lands lying in or extending into 1 or more counties, shall desire to have the damages occasioned by the passing or extension of said lines over or through the said lands appraised, the circuit court for any county in which any part of the said lands may lie shall have power to appoint commissioners, as provided in section 6, to appraise the damages to such person upon all the lands so owned or occupied by him, whether they lie in the county where the said court is held or not, provided they are contiguous to each other.

History: Add. 1863, Act 240, Eff. June 22, 1863 ;-- CL 1871, 2643 ;-- How. 3711 ;-- CL 1897, 6685 ;-- CL 1915, 8785 ;-- CL 1929, 11681 ;-- CL 1948, 484.170

484.171 Appraisal of damages; contiguous lands of same person.

Sec. 21.

Whenever any person shall apply to any circuit court for the appointment of commissioners to appraise the damages to any lands owned or occupied by him, under the provisions of this act, and it shall appear to said court that such person owns or occupies other lands contiguous thereto, whether in the county where said court is held or otherwise, it shall be the duty of said circuit court to authorize and require said commissioners to appraise the damages to such applicants upon all [the] contiguous lands of such person, in whatever county they may lie, unless said association shall otherwise consent in writing.

History: Add. 1863, Act 240, Eff. June 22, 1863 ;-- CL 1871, 2644 ;-- How. 3712 ;-- CL 1897, 6686 ;-- CL 1915, 8786 ;-- CL 1929, 11682 ;-- CL 1948, 484.171

484.172 Amendment to articles; filing, recording, use of certified copy as evidence.

Sec. 22.

It shall and may be lawful for any telegraph company organized as a corporation under the laws of this state, by the vote of 2/3 of its stockholders in value at any regular or special meeting, to amend its articles of association in any or all the particulars specified in the original articles, and in case of such amendment it shall be the duty of the president and secretary of the company to execute, acknowledge, and cause to be filed and recorded in the office of the clerk of the county where the principal office of the company is located, and in the office of the secretary of state an instrument in writing reciting the action of such stockholders, and setting forth the entire articles as amended, a copy of which said instrument, duly certified by said clerk or the secretary of state, may be used in evidence in all courts and places for and against said corporation.

History: Add. 1873, Act 14, Imd. Eff. Feb. 20, 1873 ;-- How. 3713 ;-- CL 1897, 6687 ;-- CL 1915, 8787 ;-- CL 1929, 11683 ;-- CL 1948, 484.172

TELEGRAPH COMPANIES

Act 123 of 1867

AN ACT to regulate telegraph companies and their agents, and individuals doing telegraph business, not incorporated by the state of Michigan.

History: 1867, Act 123, Eff. June 27, 1867

484.201 License and reports.

Sec. 1.

That it shall not be lawful for any telegraph company, association or individual to transact the business of telegraphing or sending messages by telegraph within this state without first procuring a certificate of authority or license from the state treasurer of this state, and before obtaining such certificate, such company, association or individual, shall furnish the state treasurer of this state annually, in the month of March in each year, with a statement under oath, of the president, treasurer, or superintendent of such company, association or individual which statement shall show:

First The name and locality of the company or association.

Second The amount of its capital stock, and how much is paid up on such stock.

Third The amount of gross receipts on their current business in this state, for the year ending December 31, next preceding such report.

History: 1867, Act 123, Eff. June 27, 1867 ;-- CL 1871, 1615 ;-- How. 3714 ;-- CL 1897, 5264 ;-- CL 1915, 6682 ;-- CL 1929, 11684 ;-- CL 1948, 484.201

484.202 Taxation.

Sec. 2.

It shall be a condition precedent to the issuing or the renewal of the annual certificate or license of the state treasurer, that the company making the statement shall pay into the state treasury a specific state tax of 2 per cent on the gross amount received by said company in this state for business done therein for the year covered by the report provided for in section 1 of this act; which said specific state tax may be recovered in any court, at the suit of this state. It shall be the duty of the state treasurer to give his receipt for all money paid into the state treasury, under the provisions of this act, and to issue as many copies of the annual certificate or license as may be desired by said company.

History: 1867, Act 123, Eff. June 27, 1867 ;-- CL 1871, 1616 ;-- How. 3715 ;-- CL 1897, 5265 ;-- CL 1915, 6683 ;-- CL 1929, 11685 ;-- CL 1948, 484.202

484.203 Permission to do business.

Sec. 3.

Any telegraph company, association, firm, copartnership or individual, complying with the requirements of this act, and receiving the certificate or license from the state treasurer of this state, shall be permitted to do business freely in any part of this state.

History: 1867, Act 123, Eff. June 27, 1867 ;-- CL 1871, 1617 ;-- How. 3716 ;-- CL 1897, 5266 ;-- CL 1915, 6684 ;-- CL 1929, 11686 ;-- CL 1948, 484.203

484.204 Penalty.

Sec. 4.

Any person or persons violating the provisions of this act, shall, upon conviction thereof in any court of competent jurisdiction, be fined in any sum of not less than 10 and not exceeding 100 dollars, for each and every act, at the discretion of the court; violations of the provisions of this act may be prosecuted in the name of the people of the state of Michigan, and it shall be the duty of the prosecuting attorney of each county in this state to prosecute for any violation of the provisions of this act.

History: 1867, Act 123, Eff. June 27, 1867 ;-- CL 1871, 1618 ;-- How. 3717 ;-- CL 1897, 5267 ;-- CL 1915, 6685 ;-- CL 1929, 11687 ;-- CL 1948, 484.204

TELEGRAPH COMPANIES

Act 195 of 1893

AN ACT to prescribe the duties of telegraph companies, incorporated either within or without this state, relative to the transmission of messages, and to provide for the recovery of damages for negligence in the performance of such duties.

History: 1893, Act 195, Eff. Aug. 28, 1893

The People of the State of Michigan enact:

484.251 Duty to serve; civil liability.

Sec. 1.

That it shall be the duty of all telegraph companies incorporated either within or without this state, doing business within this state to receive dispatches from and for other telegraph companies' lines, and from and for any individual, and on payment of their usual charges for individuals for transmitting dispatches as established by the rules and regulations of such telegraph companies, to transmit the same with impartiality and good faith. Such telegraph companies shall be liable for any mistakes, errors or delays in the transmission or delivery, or for the non-delivery of any repeated or non-repeated message in damages to the amount which such person or persons may sustain by reason of mistakes, errors or delays in the transmission or delivery due to negligence of such company, or for the non-delivery of any such dispatch, due to negligence of such telegraph company or its agents, to be recovered with costs of suit, by the person or persons sustaining such damage.

History: 1893, Act 195, Eff. Aug. 28, 1893 ;-- CL 1897, 5268 ;-- CL 1915, 6686 ;-- CL 1929, 11688 ;-- CL 1948, 484.251

484.252 Duty to transmit dispatches in order; civil liability.

Sec. 2.

It shall likewise be the duty of every such telegraph company to transmit all such dispatches in the order in which they are received. In case such telegraph company shall refuse or neglect to so transmit such dispatches, such telegraph company shall be liable for all damages sustained by any person or persons whose dispatch is postponed or delayed out of its order as herein prescribed, to be recovered as in the foregoing section: Provided, however, That arrangements may be made with the proprietors or publishers of newspapers for the transmission, for the purpose of publication, of intelligence of general and public interest, out of its regular order.

History: 1893, Act 195, Eff. Aug. 28, 1893 ;-- CL 1897, 5269 ;-- CL 1915, 6687 ;-- CL 1929, 11689 ;-- CL 1948, 484.252

RADIO BROADCASTING

Act 131 of 1927

484.301-484.305 Repealed. 1988, Act 55, Imd. Eff. Mar. 14, 1988.

ACTIONS AGAINST BROADCASTING STATIONS FOR DEFAMATORY STATEMENTS

Act 221 of 1951

AN ACT relating to actions for damages against the owners, licensees or operators of a radio broadcasting station or network of stations, for defamatory statements.

History: 1951, Act 221, Eff. Sept. 28, 1951

The People of the State of Michigan enact:

484.331 Actions for damages against owners, operators or licensees of radio broadcasting stations for defamatory statements.

Sec. 1.

The owner, licensee or operator of a visual or sound radio broadcasting station or network of stations, and the agents or employees of any such owner, licensee or operator, shall not be liable for any damages for any defamatory statement published or uttered in or as a part of a visual or sound radio broadcast, by one other than such owner, licensee or operator, or agent or employee thereof, unless it shall be alleged and proved by the complaining party that such owner, licensee, operator or such agent or employee has failed to exercise due care to prevent the publication or utterance of such statement in such broadcast.

History: 1951, Act 221, Eff. Sept. 28, 1951

484.332 Defamatory statement by or on behalf of candidate for public office; liability.

Sec. 2.

The owner, licensee or operator, or the agents or employees of any such owner, licensee or operator of such a station or network of stations, shall not be liable for any damages for any defamatory statement uttered over the facilities of such station or network by or on behalf of any candidate for public office where such statement is not subject to censorship or control by reason of any federal statute or any ruling or order of the federal communications commission made pursuant thereto.

History: 1951, Act 221, Eff. Sept. 28, 1951

***** Act 32 of 1986 THIS ACT IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

EMERGENCY 9-1-1 SERVICE ENABLING ACT

Act 32 of 1986

AN ACT to provide for the establishment of emergency 9-1-1 districts; to provide for the installation, operation, modification, and maintenance of universal emergency 9-1-1 service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, service suppliers, and others; to create an emergency 9-1-1 service committee; to provide remedies and penalties; and to repeal acts and parts of acts.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1989, Act 36, Imd. Eff. June 1, 1989 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

The People of the State of Michigan enact: Chapter I

***** 484.1101 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1101 Short title.

Sec. 101.

This act shall be known and may be cited as the "emergency 9-1-1 service enabling act".

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1102 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1102 Definitions.

Sec. 102.

As used in this act:

(a) "Automatic location identification" or "ALI" means a 9-1-1 service feature provided by the service supplier that automatically provides the name and service address or, for a CMRS service supplier, the location associated with the calling party's telephone number as identified by automatic number identification to a 9-1-1 public safety answering point.

(b) "Automatic number identification" or "ANI" means a 9-1-1 service feature provided by the service supplier that automatically provides the calling party's telephone number to a 9-1-1 public safety answering point.

(c) "Commercial mobile radio service" or "CMRS" means commercial mobile radio service regulated under section 3 of title I and section 332 of title III of the communications act of 1934, chapter 652, 48 Stat 1064, 47 USC 153 and 332, and the rules of the Federal Communications Commission or provided under the wireless

emergency service order. Commercial mobile radio service or CMRS includes all of the following:

(i) A wireless 2-way communication device, including a radio telephone used in cellular telephone service or personal communication service.

(ii) A functional equivalent of a radio telephone communications line used in cellular telephone service or personal communication service.

(iii) A network radio access line.

(d) "Commission" means the Michigan public service commission.

(e) "Committee" means the emergency 9-1-1 service committee created under section 712.

(f) "Common network costs" means the costs associated with the common network required to deliver a 9-1-1 call with ALI and ANI from a selective router or emergency services routing proxy to the proper PSAP and the costs associated with the 9-1-1 database and data distribution system of the primary 9-1-1 service supplier identified in a county 9-1-1 plan. As used in this subdivision, "common network" means the elements of a service supplier's network that are not exclusive to the supplier or technology capable of accessing the 9-1-1 system.

(g) "Communication service" means a service capable of accessing, connecting with, or interfacing with a 9-1-1 system, exclusively through the numerals 9-1-1, by dialing, initializing, or otherwise activating the 9-1-1 system through the numerals 9-1-1 by means of a local telephone device, cellular telephone device, wireless communication device, interconnected voice over the internet device, or any other means.

(h) "CMRS connection" means each number assigned to a CMRS customer.

(i) "Consolidated dispatch" means a countywide or regional emergency dispatch service that provides dispatch service for 75% or more of the law enforcement, fire fighting, emergency medical service, and other emergency service agencies within the geographical area of a 9-1-1 service district or serves 75% or more of the population within a 9-1-1 service district.

(j) "County 9-1-1 charge" means the charge allowed under sections 401b and 401e.

(k) "Database service provider" means a service supplier who maintains and supplies or contracts to maintain and supply an ALI database or an MSAG.

(l) "Direct dispatch method" means that the agency receiving the 9-1-1 call at the public safety answering point decides on the proper action to be taken and dispatches the appropriate available public safety service unit located closest to the request for public safety service.

(m) "Emergency response service" or "ERS" means a public or private agency that responds to events or situations that are dangerous or that are considered by a member of the public to threaten the public safety. An emergency response service includes a police or fire department, an ambulance service, or any other public or private entity trained and able to alleviate a dangerous or threatening situation.

(n) "Emergency service zone" or "ESZ" means the designation assigned by a county to each street name and address range that identifies which emergency response service is responsible for responding to an exchange access facility's premises.

(o) "Emergency telephone charge" means the emergency telephone operational charge and emergency telephone technical charge allowed under section 401.

(p) "Emergency 9-1-1 district" or "9-1-1 service district" means the area in which 9-1-1 service is provided or is planned to be provided to service users under a 9-1-1 system implemented under this act.

(q) "Emergency 9-1-1 district board" means the governing body created by the board of commissioners of the county or counties with authority over an emergency 9-1-1 district.

(r) "Emergency telephone operational charge" means a charge allowed under section 401 for nonnetwork technical equipment and other costs directly related to the dispatch facility and the operation of 1 or more PSAPs including, but not limited to, the costs of dispatch personnel and radio equipment necessary to provide 2-way communication between PSAPs and a public safety agency. Emergency telephone operational charge does not include non-PSAP related costs such as response vehicles and other personnel.

(s) "Emergency telephone technical charge" means a charge as allowed under section 401 or 401d for costs directly related to 9-1-1 service including plant-related costs associated with the use of the public switched telephone network or IP-based 9-1-1 transport network from the end user to the selective router or emergency services routing proxy, the network start-up costs, customer notification costs, common network costs, administrative costs, database management costs, and network nonrecurring and recurring installation, maintenance, service, and equipment charges of a service supplier providing 9-1-1 service under this act. Emergency telephone technical charge does not include costs recovered under sections 401b(10) and 408(2).

(t) "Exchange access facility" means the access from a particular service user's premises to the communication service. Exchange access facilities include service supplier provided access lines, PBX trunks, and centrex line trunk equivalents, all as defined by tariffs of the service suppliers as approved by the public service commission. Exchange access facilities do not include telephone pay station lines or WATS, FX, or incoming only lines.

(u) "Final 9-1-1 service plan" means a tentative 9-1-1 service plan that has been approved under sections 305, 307, 308, 309, and 310 and has been modified only to reflect grammatical changes and necessary changes resulting from any failure of public safety agencies to be designated as PSAPs or secondary PSAPs under section 307.

(v) "IP-based 9-1-1 service provider" means the provider of a standards-based digital (Internet Protocol) secure

redundant managed 9-1-1 transport network used for the routing and delivery of 9-1-1 connectivity with location information from a party requesting emergency services to a PSAP. An IP-based 9-1-1 network can interface with other networks and transport other emergency services applications. An IP-based 9-1-1 network may be constructed from a mix of dedicated and shared facilities or networks, and may be interconnected at local, regional, state, federal, national, and international levels to form an IP-based inter-network or intra-network of 9-1-1 connectivity.

(w) "Master street address guide" or "MSAG" means a perpetual database that contains information continuously provided by a service district that defines the geographic area of the service district and includes an alphabetical list of street names, the range of address numbers on each street, the names of each community in the service district, the emergency service zone of each service user, and the primary service answering point identification codes.

(x) "Obligations" means bonds, notes, installment purchase contracts, or lease purchase agreements to be issued by a public agency under a law of this state.

(y) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(z) "Prepaid wireless telecommunications service" means a commercial mobile radio service that allows a caller to dial 9-1-1 to access the 9-1-1 system and is paid for in advance and sold in predetermined units or dollars of which the number declines with use in a known amount.

(aa) "Primary public safety answering point", "PSAP", or "primary PSAP" means a communications facility operated or answered on a 24-hour basis assigned responsibility by a public agency or county to receive 9-1-1 calls and to dispatch public safety response services, as appropriate, by the direct dispatch method, relay method, or transfer method. It is the first point of reception by a public safety agency of a 9-1-1 call and serves the participating jurisdictions.

(bb) "Prime rate" means the average predominant prime rate quoted by not less than 3 commercial financial institutions as determined by the department of treasury.

(cc) "Private safety entity" means a nongovernmental organization that provides emergency fire, ambulance, or medical services.

(dd) "Public agency" means a village, township, charter township, or city within the state and any special purpose district located in whole or in part within the state.

(ee) "Public safety agency" means a functional division of a public agency, county, or the state that provides fire fighting, law enforcement, ambulance, medical, or other emergency services.

(ff) "Qualified obligations" means obligations that meet 1 or more of the following:

(i) The proceeds of the obligations benefit the 9-1-1 district, and for which all of the following conditions are met:

(A) The proceeds of the obligations are used for capital expenditures, costs of a reserve fund securing the obligations, and costs of issuing the obligations. The proceeds of obligations must not be used for operational expenses.

(B) The weighted average maturity of the obligations does not exceed the useful life of the capital assets.

(C) The obligations do not in whole or in part appreciate in principal amount or are not sold at a discount of more than 10%.

(ii) The obligations are issued to refund obligations that meet the conditions described in subparagraph (i) and the net present value of the principal and interest to be paid on the refunding obligations, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligations being refunded, as calculated using a method approved by the department of treasury.

(gg) "Relay method" means that a PSAP notes pertinent information and relays it by a communication service to the appropriate public safety agency or other provider of emergency services that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.

(hh) "Secondary public safety answering point" or "secondary PSAP" means a communications facility of a public safety agency or private safety entity that receives 9-1-1 calls by the transfer method only and generally serves as a centralized location for a particular type of emergency call.

(ii) "Service supplier" means a person providing a communication service to a service user in this state.

(jj) "Service user" means a person receiving a communication service.

(kk) "State 9-1-1 charge" means the charge provided for under section 401a.

(ll) "Tariff" means the rate approved by the public service commission for 9-1-1 service provided by a particular service supplier. Tariff does not include a rate of a commercial mobile radio service by a particular supplier.

(mm) "Tentative 9-1-1 service plan" means a plan prepared by 1 or more counties for implementing a 9-1-1 system in a specified 9-1-1 service district.

(nn) "Transfer method" means that a PSAP transfers the 9-1-1 call directly to the appropriate public safety agency or other provider of emergency service that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.

(oo) "Universal emergency number service" or "9-1-1 service" means public communication service that provides

service users with the ability to reach a public safety answering point by dialing the digits "9-1-1".

(pp) "Universal emergency number service system" or "9-1-1 system" means a system for providing 9-1-1 service under this act.

(qq) "Wireless emergency service order" means the order of the Federal Communications Commission, FCC docket No. 94-102, adopted June 12, 1996 with an effective date of October 1, 1996.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1991, Act 196, Imd. Eff. Jan. 2, 1992 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 1996, Act 313, Imd. Eff. June 24, 1996 ;-- Am. 1999, Act 80, Eff. Oct. 27, 1999 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2012, Act 260, Eff. Jan. 1, 2013 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

Chapter II

***** 484.1201 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1201 Implementation of emergency 9-1-1 service system; conditions; creation by 1 or more counties or cities; access.

Sec. 201.

- (1) An emergency 9-1-1 service system shall not be implemented in this state except as provided under this act.
- (2) One or more counties may create an emergency 9-1-1 service system under this act.
- (3) With the approval of the county board of commissioners in a county with a population of 1,650,000 or more, 4 or more cities may create an emergency 9-1-1 service district under this act.
- (4) Each service supplier in this state is required to provide each of its service users access to the 9-1-1 system. Each service supplier shall provide the committee with contact information to allow for notifications as required under section 714.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 1999, Act 78, Imd. Eff. June 28, 1999 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018

Popular Name: 9-1-1

484.1201a, 484.1201b Repealed. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's Notes: The repealed sections pertained to universal emergency number service systems created by counties or cities.

Popular Name: 9-1-1

***** 484.1202 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1202 Technical modifications to existing system; cost.

Sec. 202.

A public agency which is excluded from a 9-1-1 service district in a 9-1-1 system implemented under this act, but which is operating an existing emergency 9-1-1 service at the time the 9-1-1 system is implemented, shall permit

any technical modifications to its existing system which are necessary for compatibility with the 9-1-1 system. Any cost of the service supplier associated with such modifications shall be collected from service users in the 9-1-1 service district.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007
Popular Name: 9-1-1

***** 484.1203 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1203 Primary emergency 9-1-1 number; secondary backup number; number for nonemergency contacts.

Sec. 203.

The digits 9-1-1 shall be the primary emergency 9-1-1 number within every 9-1-1 system established pursuant to this act. A public safety agency whose services are available through a 9-1-1 system implemented under this act may maintain a separate secondary backup number for emergencies, and shall maintain a separate number for nonemergency contacts.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007
Popular Name: 9-1-1

***** 484.1204 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1204 System designs.

Sec. 204.

(1) A 9-1-1 system implemented pursuant to this act shall be designed to meet the individual circumstances of each county and the public agencies participating in the 9-1-1 system, and shall be within the service limitations of service suppliers providing the 9-1-1 service in the 9-1-1 system. System designs shall include provision for expansion of the system to include capabilities not required in initial implementation, including the addition of PSAPs and secondary PSAPs.

(2) Every 9-1-1 system shall be designed so that a 9-1-1 call is processed by means of either the direct dispatch method, the relay method, or the transfer method. At least 2 of the specified methods shall be available for use by the PSAP receiving the call. The PSAP may handle nonemergency calls by referring the caller to another number.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986
Popular Name: 9-1-1

***** 484.1205 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1205 Capabilities and requirements of 9-1-1 system.

Sec. 205.

(1) A 9-1-1 system established under this act must be capable of transmitting requests for law enforcement, fire fighting, and emergency medical and ambulance services to 1 or more public safety agencies which provide the requested service to the place where the call originates.

(2) A 9-1-1 system must process all 9-1-1 calls originating from telephones within an exchange any part of which is within the emergency 9-1-1 district served by the system. This requirement does not apply to any part of an exchange not located within the county or counties that established the 9-1-1 system if that part has been included in an implemented 9-1-1 system for the county within which that part is located.

(3) A 9-1-1 system must be capable of processing all 9-1-1 requests for service originating from devices connected to a communications service located within the emergency 9-1-1 district. A 9-1-1 request for service that is received, but is not from a location within the service district, must be processed to the extent technically feasible, via transfer or relay method, to the appropriate PSAP.

(4) A 9-1-1 system may provide for transmittal of requests for other emergency services, such as poison control, suicide prevention, and civil defense. Conferencing capability with counseling, aid to persons with disabilities, and other services as considered necessary for emergency response determination may be provided by the 9-1-1 system.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 1998, Act 23, Imd. Eff. Mar. 12, 1998 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1206 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1206 PSAP transmissions.

Sec. 206.

A PSAP may transmit emergency response requests to private safety entities under a 9-1-1 system.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986

Popular Name: 9-1-1

***** 484.1207 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1207 Automatic alerting devices prohibited.

Sec. 207.

The installation of automatic intrusion alarms and other automatic alerting devices which cause the number 9-1-1 to be dialed shall be prohibited in a 9-1-1 system.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986

Popular Name: 9-1-1

Chapter III

***** 484.1301 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1301 Emergency 9-1-1 district; establishment; implementation of 9-1-1 service; modification or alteration of existing emergency 9-1-1 service; emergency 9-1-1 district board; creation and powers.

Sec. 301.

(1) The board of commissioners of a county may establish an emergency 9-1-1 district within all or part of the county and may cause 9-1-1 service to be implemented within the emergency 9-1-1 district under this act.

(2) The board of commissioners of a county all or part of which is operating an existing emergency telephone service shall modify the existing emergency telephone service or may alter the scope or method of financing of 9-1-1 service within all or part of the county by establishing an emergency 9-1-1 district and causing 9-1-1 service to be implemented within the emergency 9-1-1 district under this act.

(3) The board of commissioners of a county may create an emergency 9-1-1 district board and delegate certain powers to the board.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 2006, Act 249, Imd. Eff. July 3, 2006 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1302 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1302 Emergency 9-1-1 district; joint establishment; implementation of 9-1-1 service; actions; notices.

Sec. 302.

Two or more county boards of commissioners may jointly establish an emergency 9-1-1 district within all or part of the counties and may cause 9-1-1 service to be implemented within the emergency 9-1-1 district under this act. If 2 or more county boards of commissioners wish to jointly establish an emergency 9-1-1 district under this act, then all actions required or permitted to be taken by a county or its officials under this act shall be taken by each county or the officials of each county, and all notices required or permitted to be given to a county or its officials under this act shall be given to each county or the officials of each county.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1303 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1303 Tentative 9-1-1 service plan; adoption by resolution; requirements; payments for installation and recurring charges associated with PSAP.

Sec. 303.

(1) To establish an emergency 9-1-1 district and to cause 9-1-1 service to be implemented within that emergency 9-1-1 district, the board of commissioners of a county shall first adopt a tentative 9-1-1 service plan by resolution.

(2) A tentative 9-1-1 service plan must comply with chapter II and must address at a minimum all of the following:

(a) Technical considerations of the service supplier, including but not limited to, system equipment for facilities to be used in providing emergency 9-1-1 service.

(b) Operational considerations, including but not limited to, the designation of PSAPs and secondary PSAPs, the manner in which 9-1-1 calls will be processed, the dispatch functions to be performed, plans for documenting

closest public safety service unit dispatching requirements, the dispatch of Michigan state police personnel, and identifying information systems to be utilized.

(c) Managerial considerations including the organizational form and agreements that would control technical, operational, and fiscal aspects of the emergency 9-1-1 service.

(d) Fiscal considerations including projected nonrecurring and recurring costs with a financial plan for implementing and operating the system.

(3) The tentative 9-1-1 service plan must require each public agency operating a PSAP under the 9-1-1 system to pay directly for all installation and recurring charges for terminal equipment, including call handling equipment, associated with the public agency's PSAP, and may require each public agency operating a PSAP under the 9-1-1 system to pay directly to the service supplier all installation and recurring charges for all 9-1-1 connectivity associated with the public agency's PSAP.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 1999, Act 80, Eff. Oct. 27, 1999 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1304 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1304 Specifications of resolution.

Sec. 304.

A resolution adopting a tentative 9-1-1 service plan under section 303 must specify a time, date, and place for the public hearing to be held on the tentative 9-1-1 service plan under section 309. The date of the public hearing must be not less than 90 days after the date of the adoption of the resolution authorized by this section.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1305 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1305 Forwarding copy of resolution and letter to clerk or other appropriate official.

Sec. 305.

Within 5 days after the adoption of a resolution authorized in section 303, the county clerk shall forward a copy of the resolution, together with a letter indicating where an electronic or paper copy of the tentative 9-1-1 service plan can be obtained, by certified mail, return receipt requested, to the clerk or other appropriate official of each public agency located within the 9-1-1 district of the tentative 9-1-1 service plan.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

484.1306 Repealed. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's Notes: The repealed section pertained to exclusion from 9-1-1 service district.

Popular Name: 9-1-1

***** 484.1307 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1307 Notice of intent to function as PSAP or secondary PSAP.

Sec. 307.

(1) Any public safety agency designated in the tentative 9-1-1 service plan under section 303 intending to function as a PSAP or secondary PSAP must be designated as such under the final 9-1-1 service plan if the public safety agency files with the county clerk a notice of intent to function as a PSAP or secondary PSAP within 45 days after the public agency receives a copy of the resolution and letter under section 305. The notice of intent to function as a PSAP or secondary PSAP must be in substantially the following form:

NOTICE OF INTENT TO FUNCTION

AS A PSAP OR SECONDARY PSAP

Pursuant to section 307 of the emergency 9-1-1

service enabling act, _____ shall

function as a (check one) _____ PSAP

_____ Secondary PSAP within the 9-1-1 service district

of the tentative 9-1-1 service plan adopted by resolution

of the board of commissioners for the county of

_____, on _____, 19_____.

(Acknowledgment)

(2) If a public safety agency designated as a PSAP or secondary PSAP in the tentative 9-1-1 service plan fails to file a notice of intent to function as a PSAP or secondary PSAP within the time period specified in subsection (1), the public safety agency must not be designated as a PSAP or secondary PSAP in the final 9-1-1 service plan.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1308 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1308 Hearing on tentative 9-1-1 service plan; notice.

Sec. 308.

The clerk of each county that has adopted a tentative 9-1-1 service plan under section 303 shall give notice by publication of the hearing on the tentative 9-1-1 service plan to be held under section 309. The notice must be

published twice in a newspaper or other media outlet of general circulation within the county, the first publication of the notice occurring at least 30 days prior to the date of the hearing. The notice must state all of the following:

- (a) The time, date, and place of the hearing.
- (b) A description of the boundaries of the 9-1-1 service district of the final 9-1-1 service plan.
- (c) If the board of commissioners of the county, after a hearing, adopts the final 9-1-1 service plan under this act, the state 9-1-1 charge and, if a county 9-1-1 charge has been approved, a county 9-1-1 charge must be collected on a uniform basis from all service users within the 9-1-1 service district.
- (d) The location where an electronic or paper copy of the tentative 9-1-1 service plan can be obtained.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1309 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1309 Conduct of hearing; opportunity to be heard.

Sec. 309.

The board of commissioners shall conduct a hearing on the tentative 9-1-1 service plan at the time, place, and date specified in the notice published under section 308. All persons attending the meeting must be afforded a reasonable opportunity to be heard.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1310 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1310 Final 9-1-1 service plan; adoption by resolution; application to service suppliers.

Sec. 310.

After conducting the hearing on the tentative 9-1-1 service plan under this act, the board of commissioners of the affected county may adopt by resolution the tentative 9-1-1 service plan making it the final 9-1-1 service plan. Upon adoption of the resolution, the county, on behalf of public agencies located within the 9-1-1 service district, shall apply in writing to the service supplier or suppliers designated to provide 9-1-1 service within the 9-1-1 service district under the final 9-1-1 service plan.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1311 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1311 Implementation of 9-1-1 service in 9-1-1 service district; public safety agency to function as PSAP or secondary PSAP.

Sec. 311.

(1) As soon as feasible after receipt of a written application from a county requesting 9-1-1 service within a 9-1-1 service district described in a final 9-1-1 service plan adopted pursuant to this act, each service supplier designated in the final 9-1-1 service plan shall implement 9-1-1 service within the 9-1-1 service district in accordance with the final 9-1-1 service plan.

(2) Upon implementation of 9-1-1 service in a 9-1-1 service district pursuant to subsection (1), each public safety agency designated as a PSAP or secondary PSAP in the final 9-1-1 service plan shall begin to function as a PSAP or secondary PSAP.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1991, Act 196, Imd. Eff. Jan. 2, 1992

Popular Name: 9-1-1

***** 484.1312 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1312 Amendment of final 9-1-1 service plan.

Sec. 312.

(1) Except as otherwise provided under subsection (2), after a final 9-1-1 service plan has been adopted under section 310, a county may amend the final 9-1-1 service plan only by complying with the procedures described in sections 301 to 310. Upon adoption of an amended final 9-1-1 service plan by the county board of commissioners, the county shall forward the amended final 9-1-1 service plan to the service supplier or suppliers designated to provide 9-1-1 service within the 9-1-1 service district as amended. Upon receipt of the amended final 9-1-1 service plan, each designated service supplier shall implement as soon as feasible the amendments to the final 9-1-1 service plan in the 9-1-1 service district as amended.

(2) The county board of commissioners may by resolution make minor amendments to the final 9-1-1 service plan for any of the following:

(a) Changes in PSAP premises equipment, including, but not limited to, computer-aided dispatch systems, call processing equipment, and computer mapping.

(b) Changes involving the participating public safety agencies within a 9-1-1 service district.

(c) Changes involving the addition or deletion of primary or secondary PSAPs within the 9-1-1 service district.

(d) Changes in the 9-1-1 charges collected by the county subject to the limits under this act.

(e) Changes in 9-1-1 service providers to include IP-based 9-1-1 service providers that meet the next generation 9-1-1 standards set by the National Emergency Number Association.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1313 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1313 Termination of 9-1-1 system.

Sec. 313.

A 9-1-1 system implemented pursuant to this act shall be terminated only if each public agency, all or part of which was included within the 9-1-1 service district of the final 9-1-1 service plan, withdraws its entire jurisdiction from the 9-1-1 service district pursuant to section 505.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986

Popular Name: 9-1-1

***** 484.1314 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1314 Duties of service supplier or other owner or lessee of pay station telephone; installation of pay station telephone; costs of service supplier.

Sec. 314.

(1) At the time that a 9-1-1 system becomes operational or as soon as feasible thereafter, each service supplier or other owner or lessee of a pay station telephone to be operated within the 9-1-1 service district shall do both of the following:

(a) Convert or cause to be converted each such telephone to permit a caller to dial 9-1-1 without first inserting a coin or paying any other charge.

(b) Prominently display on each such telephone a notice advising callers to dial 9-1-1 in an emergency and that deposit of a coin is not required.

(2) After commencement of 9-1-1 service in a 9-1-1 service district, a person shall not install, cause to be installed, or offer for use within the 9-1-1 district a pay station telephone, whether on public or private premises, unless the telephone is capable of accepting a 9-1-1 call without prior insertion of a coin or payment of any other charge, and displays the notice described in subsection (1).

(3) All costs of a service supplier associated with converting pay station telephones and maintaining the required notices under this section shall be borne by the service users within the 9-1-1 district.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986

Popular Name: 9-1-1

***** 484.1315 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1315 Displaying address of telephone.

Sec. 315.

If the 9-1-1 system does not provide ALI, each service supplier, owner, or lessee of a pay station telephone shall prominently display on each telephone or telephone pay station the address of the telephone at the time that a 9-1-1 system becomes operational or as soon as feasible thereafter.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986

Popular Name: 9-1-1

***** 484.1316 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1316 Providing accurate database information; customer telephone numbers and service addresses; expenses; waiver of privacy; notice of inaccurate information.

Sec. 316.

(1) Except for a CMRS supplier, a service supplier shall provide to a 9-1-1 database service provider accurate database information, including the name, service address, and telephone number of each user, in a format established and distributed by that database service provider. The information shall be provided to the 9-1-1 database service provider within the following time periods:

- (a) Within 1 business day after the initiation of service or the processing of a service order change.
- (b) Within 1 business day after receiving database information from a service supplier or service district.

(2) Except for a CMRS supplier, if an ALI is not offered by the service supplier with the 9-1-1 system and the 9-1-1 system requires that information, a service supplier shall provide current customer telephone numbers and service addresses to each PSAP and secondary PSAP within the 9-1-1 system and shall periodically update customer telephone numbers and service addresses and provide such information to each PSAP and secondary PSAP within the 9-1-1 system. The 9-1-1 service district shall determine the period within which the service supplier shall update customer telephone numbers and service addresses. Expenses incurred in providing this information shall be included in the price of the system. Private listing service customers in a 9-1-1 service district shall waive the privacy afforded by nonlisted and nonpublished numbers to the extent that the name and address associated with the telephone number may be furnished to the 9-1-1 system.

(3) A service district shall notify the service supplier or the database provider within 1 business day of any address that comes to the service district's attention that does not match the master street address guide.

(4) A CMRS supplier shall provide accurate database information for the ANI and the ALI to the 9-1-1 database service provider that complies with the wireless emergency service order.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1999, Act 80, Eff. Oct. 27, 1999

Popular Name: 9-1-1

***** 484.1317 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1317 Use of name, address, and telephone number information; limitation; violation as misdemeanor.

Sec. 317.

Name, address, and telephone number information provided to a 9-1-1 system by a service supplier shall be used only for the purpose of identifying the telephone location or identity, or both, of a person calling the 9-1-1 emergency telephone number and shall not be used or disclosed by the 9-1-1 system agencies, their agents, or their employees for any other purpose, unless the information is used or disclosed as otherwise required under this act, to a member of a public safety agency if necessary to respond to events or situations that are dangerous or threaten individual or public safety, or pursuant to a court order. A person who violates this section is guilty of a misdemeanor.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2004, Act 515, Imd. Eff. Jan. 3, 2005

Popular Name: 9-1-1

***** 484.1317a THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1317a Emergency notification system.

Sec. 317a.

(1) A 9-1-1 service district may implement an emergency notification system that will allow emergency service responders to contact service users within a specific geographic area regarding an imminent danger or emergency that may affect the user's health, safety, or welfare.

(2) A person that provides an emergency notification system allowed under this section is a service supplier under section 604.

(3) A service supplier shall upon request provide to each 9-1-1 service district within the provider's service area the telephone number and address data, including all listed, unlisted, and unpublished numbers and addresses, for each service user within the district.

(4) A service supplier may charge a reasonable rate to provide the data required under subsection (3).

(5) A 9-1-1 service district shall not request the data required under subsection (3) more than once per month.

(6) The data provided under subsection (3) shall be used only for the purposes provided under this section.

(7) This section does not apply to a wireless carrier. As used in this subsection, "wireless carrier" means a provider of 2-way cellular, broadband PCS, geographic area 800 MHz and 900 MHz commercial mobile radio service, wireless communications service, or other commercial mobile radio service as defined in 47 CFR 20.3, that offers radio communications that may provide fixed, mobile, radio location, or satellite communication services to individuals or businesses within its assigned spectrum block and geographical area or that offers real-time, 2-way voice or data service that is interconnected with the public switched network, including a reseller of the service.

(8) A person who violates this section is guilty of a misdemeanor.

History: Add. 2004, Act 515, Imd. Eff. Jan. 3, 2005

Popular Name: 9-1-1

***** 484.1318 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1318 Agreement to service as PSAP or secondary PSAP.

Sec. 318.

A public agency may enter into an agreement with a public safety agency of another public agency, or of the state, to serve as a PSAP or secondary PSAP for such public agency in a 9-1-1 system implemented pursuant to this act.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994

Popular Name: 9-1-1

***** 484.1319 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1319 Duties of certain public agencies.

Sec. 319.

A public agency that plans to establish a 9-1-1 system without using the financing method provided under this act shall do all of the following:

(a) Provide public notice of its intent to enter into a contract for 9-1-1 services. The public notice shall be provided in the same manner as required under section 308.

(b) Provide public notice of its intent to enter into a contract for 9-1-1 services to the county board of

commissioners of the county within which the public agency is located and to all other public agencies that share wire centers with the contracting public agency. The public notice shall be provided in the same manner as required under section 308.

(c) Conduct a public hearing in the same manner as required under section 309.

History: Add. 1989, Act 36, Imd. Eff. June 1, 1989 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1320 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1320 Emergency 9-1-1 district board; creation; membership, powers, and duties; appropriations to board; contracts; system to be used in dispatching participating service units; basis for determination.

Sec. 320.

(1) The county shall create an emergency 9-1-1 district board if a county creates a consolidated dispatch within an emergency 9-1-1 district after March 2, 1994.

(2) The membership of the board and the board's powers and duties are determined by the county board of commissioners. The membership of the board must include a representative of the county sheriff or his or her designated representative, a representative of the Michigan state police designated by the director of the Michigan state police, and a firefighter. If the emergency 9-1-1 district consists of more than 1 county, the president of the Michigan Sheriffs' Association shall appoint the sheriff representative.

(3) A county or other public agency may make appropriations to the emergency 9-1-1 district board.

(4) A public agency may contract with the emergency 9-1-1 district board, and persons who are both members of the board and of the governing body of the public agency may vote both on the board and the body if approved by the contract.

(5) The basis under which a consolidated dispatch meets the requirement for being a primary PSAP under section 102 determines the system to be used in dispatching participating service units.

History: Add. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 1998, Act 122, Imd. Eff. June 10, 1998 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1321 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1321 Services provided by consolidated dispatch.

Sec. 321.

A consolidated dispatch shall provide full public safety dispatching services for service requests for the participating sheriff departments, state police, and other participating public safety agencies within the 9-1-1 service district.

History: Add. 1994, Act 29, Imd. Eff. Mar. 2, 1994

Popular Name: 9-1-1

***** 484.1401 SUBSECTIONS (3) THROUGH (13) DO NOT APPLY AFTER JUNE 30, 2008 *****

***** 484.1401 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1401 Agreement; emergency telephone technical charge and emergency telephone operational charge; billing and collection service; computation; monthly charge for recurring costs and charges; ballot question; annual accounting; distribution of operational charge; limitation on levy and collection; applicability of subsections (3) through (13) after June 30, 2008.

Sec. 401.

(1) An emergency 9-1-1 district board, a 9-1-1 service district as defined in section 102 and created under section 201b, or a county on behalf of a 9-1-1 service area created by the county may enter into an agreement with a public agency that does either of the following:

(a) Grants a specific pledge or assignment of a lien on or a security interest in any money received by a 9-1-1 service district for the benefit of qualified obligations.

(b) Provides for payment directly to the public entity issuing qualified obligations of a portion of the county 9-1-1 charge or state 9-1-1 charge sufficient to pay when due principal of and interest on qualified obligations.

(2) A pledge, assignment, lien, or security interest for the benefit of qualified obligations is valid and binding from the time the qualified obligations are issued without a physical delivery or further act. A pledge, assignment, lien, or security interest is valid and binding and has priority over any other claim against the emergency 9-1-1 district board, the 9-1-1 service district, or any other person with or without notice of the pledge, assignment, lien, or security interest.

(3) Except as provided in sections 407 to 412, each service supplier within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge and emergency telephone operational charge from all service users of the service supplier within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone operational charge and that portion of the technical charge used for billing cost shall begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge and emergency telephone operational charge shall be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, shall be amortized at the prime rate plus 1% over a period not to exceed 10 years and shall be billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization shall be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge and emergency telephone operational charge shall continue to be billed to the service user.

(4) Except as provided in sections 407 to 412 and subject to the limitation provided by this section, the amount of the emergency telephone technical charge and emergency telephone operational charge to be billed to the service user shall be computed by dividing the total emergency telephone technical charge and emergency telephone operational charge by the number of exchange access facilities within the 9-1-1 service district.

(5) Except as provided in subsection (7) and sections 407 to 412, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 2% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges shall not exceed 5% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. With the approval of the county board of commissioners, a county may assess an amount for recurring emergency telephone operational costs and charges that shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the geographical boundaries of the assessing county. The percentage to be set for the emergency telephone operational charge shall be established by the county board of commissioners under section 312. A change to the percentage set for the emergency telephone operational charge may be made only by the county board of

commissioners. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (4) and the maximum permitted under this section shall be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(6) Except as provided in sections 407 to 412, the emergency telephone technical charge and emergency telephone operational charge shall be collected in accordance with the regular billings of the service supplier. The amount collected for emergency telephone operational charge shall be paid by the service supplier to the county that authorized the collection. The emergency telephone technical charge and emergency telephone operational charge payable by service users pursuant to this act shall be added to and shall be stated separately in the billings to service users.

(7) Except as provided in sections 407 to 412, for a 9-1-1 service district created or enhanced after June 27, 1991, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district.

(8) Except as provided in sections 407 to 412, a county may, with the approval of the voters in the county, assess up to 16% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the geographical boundaries of the assessing county or assess a millage or combination of the 2 to cover emergency telephone operational costs. In a ballot question under this subsection, the board of commissioners shall specifically identify how the collected money is to be distributed. An affirmative vote on a ballot question under this subsection shall be considered an amendment to the 9-1-1 service plan pursuant to section 312. Not more than 1 ballot question under this subsection may be submitted to the voters within any 12-month period. An assessment approved under this subsection shall be for a period not greater than 5 years.

(9) The total emergency telephone operational charge as prescribed in subsections (5) and (8) shall not exceed 20% of the lesser of \$20.00 or the highest monthly flat rate charged for primary basic service by a service supplier for a 1-party access line.

(10) Except as provided in sections 407 to 412, if the voters approve the charge to be assessed on the service user's telephone bill on a ballot question under subsection (8), the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your telephone carrier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER)."

(11) Except as provided in sections 407 to 412, an annual accounting shall be made of the emergency telephone operational charge approved under this act in the same manner as the annual accounting required by section 405.

(12) Except as otherwise provided in subsection (13), or as provided in sections 407 to 412, the emergency telephone operational charge collected under this section shall be distributed by the county or the counties to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to the distribution of access lines within the primary PSAPs.

(13) Except as provided in sections 407 to 412, if a county had multiple emergency telephone districts before March 2, 1994, then the emergency telephone operational charge collected under this section shall be distributed in proportion to the amount of access lines within the primary PSAPs.

(14) This act does not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency 9-1-1 district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(15) Notwithstanding any other provision of this act, the emergency telephone technical charge collected under this section and the emergency telephone operational charge shall not be levied or collected after June 30, 2008. If all or a portion of the emergency telephone operational charge has been pledged as security for the payment of qualified obligations, the emergency telephone operational charge shall be levied and collected only to the extent required to pay the qualified obligations or satisfy the pledge.

(16) Subsections (3) through (13) do not apply after June 30, 2008.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1989, Act 36, Imd. Eff. June 1, 1989 ;-- Am. 1991, Act 45, Imd. Eff. June 27, 1991 ;-- Am. 1991, Act 196, Imd. Eff. Jan. 2, 1992 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 1999, Act 81, Imd. Eff. June 28, 1999 ;-- Am. 2006, Act 249, Imd. Eff. July 3, 2006 ;-- Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2008, Act 48, Eff. Jan. 1, 2008

Compiler's Notes: Enacting section 1 of Act 48 of 2008 provides: "Enacting section 1. This amendatory act is retroactive and is effective January 1, 2008."

Popular Name: 9-1-1

***** 484.1401a THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1401a Billing and collection of state 9-1-1 charge; listing on bill or payment receipt; state charge; separate charges imposed on access points or lines.

Sec. 401a.

(1) Each service supplier within a 9-1-1 service district shall bill and collect a state 9-1-1 charge from all service users, except for users of a prepaid wireless telecommunications service, of the service supplier within the geographical boundaries of the 9-1-1 service district or as otherwise provided by this section. The state 9-1-1 charge must be uniform per each service user within the 9-1-1 service district.

(2) The state 9-1-1 charge must be collected in accordance with the regular billings of the service supplier. Except as otherwise provided under this act, the amount collected for the state 9-1-1 charge must be remitted quarterly by the service supplier to the state treasurer and deposited in the emergency 9-1-1 fund created under section 407. The charge allowed under this section must be listed separately on the customer's bill or payment receipt or otherwise disclosed to the consumer.

(3) Subject to section 401f, the state 9-1-1 charge is 25 cents. The state 9-1-1 charge must reflect the actual costs of operating, maintaining, upgrading, and other reasonable and necessary expenditures for the 9-1-1 system in this state.

(4) If a service user has multiple access points or access lines, the state 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

History: Add. 2007, Act 164, Eff. July 1, 2008 ;-- Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008 ;-- Am. 2012, Act 260, Eff. Jan. 1, 2013 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1401b THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1401b Additional charge assessed by county board of commissioners; methods; limitation; approval of charge by voters; statement on service provider's bill; annual accounting; payment and distribution; methods; adjustment; county having multiple emergency response districts; distribution to secondary PSAPs; retention of percentage to cover supplier's costs; listing as separate charge on customer's bill; exemption from disclosure; separate charges imposed on access points or lines; use of charge assessed.

Sec. 401b.

(1) In addition to the charge allowed under section 401a, after June 30, 2008 a county board of commissioners may assess a county 9-1-1 charge to service users, except for users of a prepaid wireless telecommunications service, located within that county by 1 of the following methods:

(a) Up to \$0.42 per month by resolution.

(b) Up to \$3.00 per month with the approval of the voters in the county.

(c) Any combination of subdivisions (a) and (b) with a maximum county 9-1-1 charge of \$3.00 per month.

(2) A county assessing a county 9-1-1 charge amount approved in the commission's order in case number U-15489 that exceeds the amounts established in subsection (1) may continue to assess the amount approved by the commission. Any proposed increase to the amount approved in the commission order is subject to subsection (1).

(3) The charge assessed under this section and section 401e must not exceed the amount necessary and reasonable to implement, maintain, and operate the 9-1-1 system in the county.

(4) If the voters approve the charge to be assessed on the service user's monthly bill on a ballot question under

this section, the service provider's bill must state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your service supplier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER).".

(5) Within 90 days after the first day of each fiscal or calendar year of a county, an annual accounting must be made of the charge approved under this section.

(6) Except as otherwise provided in subsection (10), the county 9-1-1 charge collected under this section must be paid quarterly directly to the county and distributed by the county to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to population within the emergency 9-1-1 district.

(7) Subject to subsection (1), the county may adjust the county 9-1-1 charge annually to be effective July 1. The county shall notify the committee no later than May 15 of each year of any change in the county 9-1-1 charge under this section.

(8) If a county has multiple emergency response districts, the county 9-1-1 charge collected under this section must be distributed under subsection (6) in proportion to the population within the emergency 9-1-1 district.

(9) This section does not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency 9-1-1 district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(10) The service supplier may retain 2% of the approved county 9-1-1 charge to cover the supplier's costs for billings and collections under this section.

(11) The charge allowed under this section must be listed separately on the customer's bill or otherwise disclosed to the consumer and state by which means the charge was approved under subsection (1).

(12) Information submitted by a service supplier to a county under this section is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and the county shall not release that information without the consent of the service supplier. Unless required or permitted by statute, court rule, subpoena, or court order, or except as necessary for a county, the commission, committee, or public agency to pursue or defend the public's interest in any public contract or litigation, a county treasurer, the commission, committee, agency, or any employee or representative of a PSAP, database administrator, or public agency shall not divulge any information acquired with respect to customers, revenues or expenses, trade secrets, access line counts, commercial information, or any other proprietary information with respect to a service supplier while acting or claiming to act as an employee, agent, or representative. An aggregation of information that does not identify or effectively identify the number of customers, revenues or expenses, trade secrets, access lines, commercial information, and other proprietary information attributable to a specific service supplier may be made public.

(13) If a service user has multiple access points or access lines, the county 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

(14) A county 9-1-1 charge assessed under subsection (1) must be used only to fund costs approved as allowable in a published report by the committee before December 1, 2008. The committee shall notify the standing committees of the senate and house of representatives having jurisdiction over issues pertaining to communication technology at least 90 days before modifying what constitutes an allowable cost under this subsection.

History: Add. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008 ;-- Am. 2012, Act 260, Eff. Jan. 1, 2013 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018

Popular Name: 9-1-1

***** 484.1401c THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027 *****

484.1401c Collection of emergency 9-1-1 surcharge by seller from prepaid consumers; amount; in-state transactions; sale at single, nonitemized price; "minimal amount" defined; monthly remittance of surcharge by seller; deposit; retention of amount as reimbursement for direct costs; liability for damages; review and report of emergency 9-1-1 fund; examination or audit; definitions.

Sec. 401c.

(1) A seller shall collect a prepaid wireless 9-1-1 surcharge from a consumer for each retail transaction occurring in this state.

(2) Until February 28, 2022, the amount of the prepaid wireless 9-1-1 surcharge is 5.0% per retail transaction. Subject to section 401f, beginning March 1, 2022, the amount of the prepaid wireless 9-1-1 surcharge is 6.0% per retail transaction. The charge allowed under this section must be either separately stated on an invoice, receipt, or other similar document that is provided to a consumer by the seller or otherwise disclosed to the consumer.

(3) Each of the following transactions is considered to have occurred in this state:

(a) A retail transaction that is effected in person by a consumer at a business location of a seller located in this state.

(b) A retail transaction that is treated as occurring in this state as provided in section 3c of the use tax act, 1937 PA 94, MCL 205.93c, as that section applies to a prepaid wireless calling service.

(4) A prepaid wireless 9-1-1 surcharge is the liability of the consumer and not of the seller or of any provider.

(5) Except as otherwise provided in subsection (6) and subject to section 401f, if a prepaid wireless telecommunications service is sold with 1 or more products or services for a single, nonitemized price, the seller shall collect 5.0% until February 28, 2022, and 6.0% beginning March 1, 2022, on the entire nonitemized price unless the seller elects to do the following:

(a) If the amount of the prepaid wireless telecommunications service is disclosed to the consumer as a dollar amount, apply the percentage to that dollar amount.

(b) If the seller can identify the portion of the price that is attributable to the prepaid wireless telecommunications service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes, apply the percentage to that portion.

(6) If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, a seller may elect not to apply the percentage specified in subsection (5)(a) to that transaction. As used in this subsection, "minimal amount" means an amount of service denominated as 10 minutes or less or \$5.00 or less.

(7) The seller shall remit the prepaid wireless 9-1-1 surcharge monthly to the state treasurer who shall deposit it in the emergency 9-1-1 fund created in section 407.

(8) A seller may retain 2% of prepaid wireless 9-1-1 surcharges that are collected by the seller to reimburse the seller for its direct costs in collecting and remitting the prepaid wireless 9-1-1 surcharges.

(9) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 9-1-1 service or for identifying or failing to identify the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 9-1-1 service.

(10) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigative or law enforcement officer of the United States, this state, or any other state in connection with any lawful investigation or other law enforcement activity by that law enforcement officer.

(11) The department, in cooperation and in conjunction with the state 9-1-1 committee, shall review the emergency 9-1-1 fund created in section 407 for collection and remittance compliance under this section. The review must contain findings on at least all of the following:

(a) The amount of money owed to the emergency 9-1-1 fund created in section 407 under this section.

(b) The amount of money remitted to the emergency 9-1-1 fund created in section 407 under this section.

(c) Any other pertinent information to locate and address noncompliance with this section as determined by the department or the state 9-1-1 committee.

(d) Any other pertinent information on the prepaid mobile wireless calling service and prepaid wireless calling service marketplace that may help accurately predict revenue under this section.

(12) By not later than June 30, 2023, the department and the state 9-1-1 committee shall issue a report to the legislature regarding the findings under subsection (11). In addition to the required information under subsection (11), the report must contain recommendations to the legislature to increase compliance with this section.

(13) Subject to subsection (14), to determine whether a seller has correctly collected and remitted the prepaid wireless 9-1-1 surcharge due under this section, the department may examine the books, records, and papers and audit the accounts of a seller or any other records to the same extent as provided under 1941 PA 122, MCL 205.1 to 205.31. An examination or audit performed by the department under this section must be done in accordance with the procedures under section 21 of 1941 PA 122, MCL 205.21. An assessment, decision, or order of the department issued as a result of an examination or audit under this section is subject to appeal as provided under section 22 of 1941 PA 122, MCL 205.22. An assessment or claim for a refund is subject to the time periods specified under section 27a(2) to (4) of 1941 PA 122, MCL 205.27a. Before initiating an examination or audit under this subsection, the department shall consult with the commission and the attorney general to determine whether the commission has initiated an investigation or the attorney general has commenced a civil action under

section 403.

(14) If the commission is investigating a seller or the attorney general has commenced a civil action against a seller under section 403, the department shall not examine or audit the seller under subsection (13) for the same conduct that is being investigated by the commission or for which a civil action has commenced under section 403.

(15) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications services in a retail transaction.

(b) "Department" means the department of treasury.

(c) "Prepaid wireless 9-1-1 surcharge" means the fee that is required to be collected by a seller from a consumer in the amount established under subsection (2).

(d) "Provider" means a person that provides prepaid wireless telecommunications services under a license issued by the Federal Communications Commission.

(e) "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

(f) "Seller" means a person who sells prepaid wireless telecommunications service to another person.

History: Add. 2007, Act 164, Eff. July 1, 2008 ;-- Am. 2012, Act 260, Eff. Jan. 1, 2013 ;-- Am. 2012, Act 433, Imd. Eff. Dec. 21, 2012 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1401d THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1401d Billing and collection of emergency telephone technical charge; "local exchange provider" defined.

Sec. 401d.

(1) Each local exchange provider within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge from all service users, except for users of a prepaid wireless telecommunications service, of the provider within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone technical charge must begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge must be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, must be amortized at the prime rate plus 1% over a period not to exceed 10 years and billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization must be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge must continue to be billed to the service user.

(2) Until 59 days after the effective date of the 2018 amendatory act that amended this section, the amount of the emergency telephone technical charge to be billed to the service user must be computed by dividing the total emergency telephone technical charge by the number of exchange access facilities within the 9-1-1 service district. Beginning 60 days after the effective date of the 2018 amendatory act that amended this section, the amount of the emergency telephone technical charge to be billed to the service user must be computed by dividing the total emergency telephone technical charge costs in all 9-1-1 service districts in this state by the number of exchange access facilities within all 9-1-1 service districts in this state.

(3) The amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges must not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the local exchange provider for primary basic local exchange service within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges must not exceed 5% of the lesser of \$20.00 or the highest monthly rate charged by the provider for primary basic local exchange

service within the 9-1-1 service district. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (2) and the maximum permitted under this section must be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(4) The emergency telephone technical charge must be collected in accordance with the regular billings of the local exchange provider. The emergency telephone technical charge payable by service users under this act must be added to and stated separately in the billings to service users or otherwise disclosed to the consumer.

(5) As used in this section, "local exchange provider" means a provider of basic local exchange service as that term is defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

History: Add. 2007, Act 164, Imd. Eff. Dec. 21, 2007 ;-- Am. 2012, Act 260, Eff. Jan. 1, 2013 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018
Popular Name: 9-1-1

***** 484.1401e THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1401e Surcharge; assessment; submission of certain information to commission; review and approval or disapproval of surcharge.

Sec. 401e.

(1) No later than February 15, 2008, each county that decides to assess a surcharge under section 401b shall with the assistance of the state 9-1-1 office submit to the commission all of the following:

(a) The initial county 9-1-1 surcharge for each 9-1-1 service district to be effective July 1, 2008.

(b) The estimated amount of revenue to be generated in each 9-1-1 service district for 2007.

(c) Based on the surcharge established under this subsection, the estimated amount of revenue to be generated for 2008.

(2) If the amount to be generated in 2008 exceeds the amount received in 2007 plus an amount not to exceed 2.7% of the 2007 revenues, the commission, in consultation with the committee, shall review and approve or disapprove the county 9-1-1 surcharge adopted under section 401b. If the commission does not act by March 17, 2008, the county 9-1-1 surcharge shall be deemed approved. If the surcharge is rejected, it shall be adjusted to ensure that the revenues generated do not exceed the amounts allowed under this subsection. In reviewing the surcharge under this subsection, the commission shall consider the allowable and disallowable costs as approved by the committee on June 21, 2005.

History: Add. 2007, Act 164, Imd. Eff. Dec. 21, 2007
Popular Name: 9-1-1

***** 484.1401f THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1401f Initiation of proceeding to reduce 9-1-1 charge; intervention; final order; effective date.

Sec. 401f.

(1) After December 31, 2025, the department of treasury shall notify the commission on a quarterly basis of the balance available for distribution under section 408(4)(b). If the balance available for distribution under section 408(4)(b) exceeds \$12,000,000.00 for 3 consecutive quarters, the commission may initiate a proceeding to reduce the state 9-1-1 charge in section 401a and the prepaid wireless 9-1-1 surcharge under section 401c proportionately to ensure that the average quarterly balance to be distributed under section 408(4)(b) is sufficient to reimburse at least 6 months of ongoing approved costs related to transport, routing, or delivery to PSAPs of IP-based 9-1-1 emergency service.

(2) If all emergency 9-1-1 districts in this state have not been fully converted to or contracted with an IP-based 9-1-1 service provider at the time of the proceeding under subsection (1), the commission shall take that into consideration along with any incurred cost that has not been reimbursed to the IP-based 9-1-1 service provider when determining the reduction described in subsection (1).

(3) The commission may request from the department of treasury any data reasonably necessary to make a determination under subsection (1). The department of treasury shall provide the data requested under this subsection in a timely fashion.

(4) The commission must allow an interested person to intervene in a proceeding under subsection (1).

(5) Within 180 days after a proceeding commences under subsection (1), the commission shall issue a final order. The commission shall notify the legislature and IP-based 9-1-1 service providers of a final order within 10 days of issuing the final order.

(6) Reductions to the state 9-1-1 charge under section 401a and the prepaid wireless 9-1-1 surcharge under section 401c take effect 60 days after the commission issues a final order under subsection (5).

History: Add. 2021, Act 126, Imd. Eff. Dec. 17, 2021

***** 484.1402 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1402 Liability for charge.

Sec. 402.

Each billed service user shall be liable for any state, county, or technical 9-1-1 charge imposed on the service user under this act.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1403 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1403 Responsibility for billing charge and transmitting money; notification of failure to report, charge, collect, or transmit charges; civil action; other actions authorized by law; prohibition on investigation or commencement of civil action under certain circumstances.

Sec. 403.

(1) Each service supplier is solely responsible for the billing of the state and county 9-1-1 charge and transmitting the money collected to the emergency 9-1-1 fund and to the counties as required under this act.

(2) The committee, a county, or a 9-1-1 service district shall notify the commission if the committee, county, or 9-1-1 service district is aware of a service supplier, CMRS supplier, reseller, or retailer of a prepaid wireless telecommunications service that has failed to report, charge, collect, or transmit the 9-1-1 charges in section 401a, 401b, or 401c. The committee, a county, or a 9-1-1 service district shall include with the notification under this subsection all information, testimony, exhibits, or other documents and information the committee, county, or 9-1-1 service district possesses that support the notification. Subject to subsection (5), before the attorney general commences a suit under subsection (3), the commission shall investigate any failure to report, charge, collect, or transmit charges and attempt to resolve those complaints. Before the commission initiates an investigation under this subsection, the commission shall consult with the department of treasury to determine whether the department of treasury initiated an examination or audit under section 401c.

(3) Subject to subsection (5), upon referral by the commission, the attorney general may commence a civil action against a service supplier, CMRS supplier, reseller, or retailer of a prepaid wireless telecommunications service for appropriate relief for failure to report, charge, collect, and transmit the state 9-1-1 charges in sections 401a and 401c. An action under this subsection may be brought in the Ingham County circuit court or the circuit court in a county in which the defendant resides or is doing business. The court has jurisdiction to restrain the violation and to require compliance with this section. Before the attorney general commences a civil action under this subsection, the attorney general shall consult with the department of treasury to determine whether the department of treasury initiated an examination or audit under section 401c.

(4) This section does not prohibit a county from taking any action authorized by law against an entity that fails to remit the county 9-1-1 charge under section 401b.

(5) If the department of treasury is examining or auditing a retailer of a prepaid wireless telecommunications service under section 401c, the commission shall not initiate an investigation and the attorney general shall not commence a civil action under this section against a retailer of a prepaid wireless telecommunications service for the same conduct that is being examined or audited by the department of treasury under section 401c.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 1999, Act 81, Imd. Eff. June 28, 1999 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021
Popular Name: 9-1-1

***** 484.1404 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1404 Alteration of state or county 9-1-1 charge.

Sec. 404.

A service supplier providing or designated to provide 9-1-1 service under this act shall not alter the state or county 9-1-1 charge collected from service users within the 9-1-1 service district except as provided under this act.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1999, Act 81, Imd. Eff. June 28, 1999 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007
Popular Name: 9-1-1

484.1405 Repealed. 2019, Act 30, Imd. Eff. June 25, 2019.

Compiler's Notes: The repealed section pertained to the promulgation of rules for multiline telephone systems.
Popular Name: 9-1-1

***** 484.1406 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1406 Expenditure of funds; accounting, auditing, monitoring, and evaluation procedures provided by county, PSAP, or secondary PSAP; annual audit; authorization or expenditure of increase in charges; receipt of 9-1-1 funds.

Sec. 406.

(1) The funds collected and expended under this act must be expended exclusively for 9-1-1 services and in compliance with the rules promulgated under section 413.

(2) Each county, PSAP, or secondary PSAP that receives money under this act shall assure that fund accounting, auditing, monitoring, and evaluation procedures are provided as required by this act and the rules promulgated under this act.

(3) An annual audit must be conducted by an independent auditor using generally accepted accounting principles and copies of the annual audit must be made available for public inspection.

(4) An increase in the charges allowed under this act must not be authorized or expended for the next fiscal year unless according to the most recently completed annual audit the expenditures are in compliance with this act.

(5) The receipt of 9-1-1 funds under this act is dependent on compliance with the standards established by the commission under section 413.

History: Add. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 1999, Act 81, Imd. Eff. June 28, 1999 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018

Popular Name: 9-1-1

***** 484.1407 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1407 Emergency 9-1-1 fund; creation; disposition of assets; money remaining in fund; expenditure; disbursement; audit.

Sec. 407.

(1) The emergency 9-1-1 fund is created within the state treasury.

(2) The state treasurer may receive money or other assets as provided under this act and from any source for deposit into the fund. Money may be deposited into the fund by electronic funds transfer. Money in the CMRS emergency telephone fund on July 1, 2008 must be deposited into the fund and expended as provided by this act. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year remains in the fund and does not lapse to the general fund.

(4) The department of treasury shall expend money from the fund only as provided in this act. The disbursement of money may be by electronic funds transfer.

(5) The auditor general shall audit the fund at least biennially.

History: Add. 1999, Act 78, Imd. Eff. June 28, 1999 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018

Popular Name: 9-1-1

***** 484.1408 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1408 State 9-1-1 service charge by service supplier; retention of percentage to cover supplier's costs; deposit of money in emergency 9-1-1 fund; collection, deposit, and distribution of money; methods of distribution to primary PSAPs by county; proceeding to determine recurring and nonrecurring cost categories; rules to establish standards for receipt and expenditure of funds.

Sec. 408.

(1) Except as otherwise provided under this act, a service supplier shall bill and collect a state 9-1-1 service charge per month as determined under section 401a. The service supplier shall list the state 9-1-1 service charge authorized under this act as a separate line item on each bill as the "state 9-1-1 charge".

(2) Each service supplier may retain 2% of the state 9-1-1 charge collected under this act to cover the supplier's

costs for billing and collection.

(3) Except as otherwise provided under subsection (2), the money collected as the state 9-1-1 charge under subsection (1) must be deposited in the emergency 9-1-1 fund created in section 407 no later than 30 days after the end of the quarter in which the state 9-1-1 charge was collected.

(4) Except as otherwise provided in subsection (11), all money collected and deposited in the emergency 9-1-1 fund created in section 407 must be distributed as provided in this section. Annual money collected not exceeding \$37,000,000.00 must be distributed as follows:

(a) 65% must be disbursed to each county that has a final 9-1-1 plan in place. 40% of the 65% must be distributed quarterly on an equal basis to each county, and 60% of the 65% must be distributed quarterly based on a population per capita basis. A county shall only use money received by the county under this subdivision for 9-1-1 services as allowed under this act. A county shall repay to the fund any money expended under this subdivision for a purpose considered unnecessary or unreasonable by the committee or the auditor general.

(b) 25.56% must be available to reimburse local exchange providers for the costs related to wireless emergency service and to reimburse IP-based 9-1-1 service providers for the costs related to the transport, routing, or delivery to PSAPs of IP-based 9-1-1 emergency service. Any cost reimbursement allowed under this subdivision must not include a cost that is not related to wireless emergency service or to IP-based 9-1-1 emergency service. A local exchange provider or an IP-based 9-1-1 service provider may, on a monthly basis, submit an invoice to the commission for reimbursement from the emergency 9-1-1 fund for allowed costs. Except as otherwise provided in subsection (5), within 45 days after the date an invoice is submitted to the commission, the commission shall approve, either in whole or in part, or deny the invoice. The commission shall notify the department of treasury within 5 business days of the commission's approval of the invoice. The department of treasury shall pay the approved invoice within 30 days of receiving notice from the commission.

(c) 5.5% must be available to PSAPs for training personnel assigned to 9-1-1 centers. A public safety agency or county shall make a written request for money from the fund to the committee. The committee shall semiannually authorize distribution of money from the fund to eligible public safety agencies or counties. A public safety agency or county that receives money under this subdivision shall create, maintain, and make available to the committee upon request a detailed record of expenditures relating to the preparation, administration, and carrying out of activities of its 9-1-1 training program. An eligible public safety agency or county shall repay to the fund any money expended by that public safety agency or county for a purpose considered unnecessary or unreasonable by the committee or the auditor general. The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under section 413 establishing training standards for 9-1-1 system personnel. Money must be disbursed on a biannual basis to an eligible public safety agency or county for training of PSAP personnel through courses certified by the committee only for either of the following purposes:

(i) To provide basic 9-1-1 operations training.

(ii) To provide in-service training to employees engaged in 9-1-1 service.

(d) 1.5% must be credited to the department of state police to operate a regional dispatch center that receives and dispatches 9-1-1 calls, and 2.44% must be credited to the department of state police for costs to administer this act and to maintain the office of the state 9-1-1 coordinator.

(5) By May 5, 2018, the commission shall commence a proceeding to determine the recurring and nonrecurring cost categories for all IP-based 9-1-1 service providers. The commission shall allow any interested person to intervene in a proceeding under this subsection. Within 180 days after a proceeding is commenced under this subsection, the commission shall issue a final order adopting the recurring and nonrecurring cost categories for all IP-based 9-1-1 service providers considered just and reasonable by the commission. For cost studies first submitted by an IP-based 9-1-1 service provider after the commission completes the proceeding under this subsection, the commission shall, within 45 days of receiving an invoice, only approve those costs in the invoice that are both of the following:

(a) Consistent with the recurring and nonrecurring cost categories for IP-based 9-1-1 service providers approved by the commission under this subsection.

(b) For contracts entered into after March 6, 2018, the result of a competitively bid process as confirmed by supporting documentation.

(6) An IP-based 9-1-1 service provider shall file an updated cost study not later than 5 years after the filing of an initial cost study and every 5 years thereafter.

(7) An IP-based 9-1-1 service provider must meet the next generation 9-1-1 standards set by the National Emergency Number Association to submit an invoice to the commission under subsection (4)(b) for reimbursement from the emergency 9-1-1 fund for allowed costs.

(8) Funds generated by the fees in sections 401a and 401c in excess of \$37,000,000.00 annually must be reserved for approved costs under subsection (4)(b).

(9) Money received by a county under subsection (4)(a) must be distributed by the county to the primary PSAPs geographically located within the 9-1-1 service district by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the 9-1-1 service plan under subdivision (a), then according to any

agreement for distribution between a county and a public agency.

(c) If distribution is not provided for in the 9-1-1 service plan under subdivision (a) or by agreement between the county and public agency under subdivision (b), then according to the population within the geographic area for which the PSAP serves as primary PSAP.

(d) If a county has multiple emergency 9-1-1 districts, money for that county must be distributed as provided in the emergency 9-1-1 districts' final 9-1-1 service plans.

(10) The commission shall consult with and consider recommendations of the committee in the promulgation of rules under section 413 establishing the standards for the receipt and expenditure of 9-1-1 funds under this act. Receipt of 9-1-1 funds under this act is dependent on compliance with the standards established under this subsection.

(11) 100% of the money deposited in the emergency 9-1-1 fund under a bill making appropriations for the fiscal year ending September 30, 2022 must be used for the purposes described in subsection (4)(b).

History: Add. 1999, Act 78, Imd. Eff. June 28, 1999 ;-- Am. 2003, Act 244, Eff. Jan. 1, 2004 ;-- Am. 2004, Act 89, Imd. Eff. Apr. 22, 2004 ;-- Am. 2006, Act 74, Imd. Eff. Mar. 20, 2006 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007 ;-- Am. 2008, Act 48, Eff. Jan. 1, 2008 ;-- Am. 2010, Act 206, Imd. Eff. Oct. 12, 2010 ;-- Am. 2010, Act 284, Imd. Eff. Dec. 16, 2010 ;-- Am. 2011, Act 146, Imd. Eff. Sept. 21, 2011 ;-- Am. 2013, Act 113, Imd. Eff. Sept. 24, 2013 ;-- Am. 2018, Act 51, Imd. Eff. Mar. 6, 2018 ;-- Am. 2019, Act 76, Imd. Eff. Sept. 30, 2019 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Compiler's Notes: Enacting section 1 of Act 48 of 2008 provides: "Enacting section 1. This amendatory act is retroactive and is effective January 1, 2008."

Popular Name: 9-1-1

484.1409 Repealed. 2003, Act 244, Eff. Jan. 1, 2004.

Compiler's Notes: The repealed section pertained to distribution of money.

Popular Name: 9-1-1

484.1410, 484.1411 Repealed. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's Notes: The repealed sections pertained to review of expenditures by subcommittee and use of funds.

Popular Name: 9-1-1

***** 484.1412 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1412 Report on 9-1-1 system and charge.

Sec. 412.

(1) The committee shall make a report annually on the 9-1-1 system in this state and the state and county 9-1-1 charge required under sections 401, 401a, 401b, 401c, 401d, and 401e and distributed under section 408 not later than August 1 of each year. The report shall include at a minimum all of the following:

(a) The extent of emergency 9-1-1 service implementation in this state.

(b) The actual 9-1-1 service costs incurred by PSAPs and counties.

(c) The state 9-1-1 charge required under section 401a and a recommendation of any changes in the state 9-1-1 charge amount or in the distribution percentages under section 408.

(d) A description of any commercial applications developed as a result of implementing this act.

(e) The charge allowed under sections 401a, 401b, 401c, 401d, and 401e and a detailed record of expenditures

by each county relating to this act.

(2) The committee shall deliver the report required under subsection (1) to the secretary of the senate, the clerk of the house of representatives, and the standing committees of the senate and house of representatives having jurisdiction over issues pertaining to communication technology.

History: Add. 1999, Act 78, Imd. Eff. June 28, 1999 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1412a THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1412a Annual accounting of total emergency telephone charges; adjustment of amount collected; additional charge.

Sec. 412a.

(1) Within 90 days after the first day of the calendar year following the year in which a service supplier commenced collection of the emergency telephone technical charge under section 401d, and within 90 days after the first day of each calendar year thereafter, a service supplier collecting the emergency telephone technical charge for the purpose of providing 9-1-1 service pursuant to this act shall make an annual accounting to the 9-1-1 service district of the total emergency telephone charges collected during the immediately preceding calendar year.

(2) If an annual accounting made pursuant to subsection (1) discloses that the total emergency telephone technical charges collected during the immediately preceding calendar year exceeded the total cost of installing and providing 9-1-1 service within the 9-1-1 service district for the immediately preceding calendar year according to the rates and charges of the service supplier, the service supplier shall adjust the emergency telephone technical charge collected from service users in the 9-1-1 service district in an amount computed pursuant to this section. The amount of the adjustment shall be computed by dividing the excess by the number of exchange access facilities within the 9-1-1 service district as the district existed for the billing period immediately following the annual accounting. Costs of the service supplier associated with making the adjustment under this subsection as part of the billing and collection service shall be deducted from the amount to be adjusted.

(3) If the annual accounting discloses that the total emergency telephone technical charges collected during the calendar year are less than the total cost of installing and providing 9-1-1 service within the 9-1-1 service district for the immediately preceding calendar year according to the costs and rates of the service supplier, the service supplier shall collect an additional charge from service users in the 9-1-1 service district in an amount computed pursuant to this section. Subject to the limitations provided by section 401d, the amount of the additional charge shall be computed by dividing the amount by which the total cost exceeded the total emergency telephone technical charges collected during the immediately preceding calendar year by the number of exchange access facilities within the 9-1-1 service district as the district existed for the billing period immediately following the annual accounting.

History: Add. 2008, Act 379, Imd. Eff. Dec. 23, 2008

Popular Name: 9-1-1

***** 484.1413 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1413 Rules; applicability to service suppliers; multiline telephone system compliance with federal regulations; "multiline telephone system" defined.

Sec. 413.

(1) The commission may promulgate rules to establish 1 or more of the following:

(a) Uniform procedures, policies, and protocols governing 9-1-1 services in counties and PSAPs in this state.

- (b) Standards for the training of PSAP personnel.
- (c) Uniform procedures, policies, and standards for the receipt and expenditure of 9-1-1 funds under sections 401a, 401b, 401c, 401d, 401e, 406, and 408.
- (d) The penalties and remedies for violations of this act and the rules promulgated under this act.
- (2) The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under this section.
- (3) The commission's rule-making authority is limited to that expressly granted under this section.
- (4) The rules promulgated under this section do not apply to service suppliers.
- (5) A multiline telephone system must comply with the most up-to-date version of 47 CFR 9.15 to 9.17.
- (6) As used in this section, "multiline telephone system" means a system composed of common control unit or units, telephone sets with unique telephone numbers, and control hardware and software.

History: Add. 2006, Act 249, Imd. Eff. July 3, 2006 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007 ;-- Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008 ;-- Am. 2019, Act 30, Imd. Eff. June 25, 2019 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Compiler's Notes: Enacting section 2 of Act 30 of 2019 provides: "Enacting section 2. R 484.901 to R 484.906 of the Michigan Administrative Code are rescinded."

Popular Name: 9-1-1

Chapter V

***** 484.1501 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1501 Notice of intent to function as PSAP or secondary PSAP; forwarding notice to service supplier; commencement of function; payment of cost of equipment installation or system modification.

Sec. 501.

(1) After installation and commencement of operation of a 9-1-1 system implemented pursuant to this act, a public safety agency serving a public agency or county within the 9-1-1 service district may be added to the 9-1-1 system as a PSAP or a secondary PSAP by giving written notice of intent to function as a PSAP or secondary PSAP as provided in section 307 to the county clerk. Within 5 days of receipt of the notice, the county clerk shall forward the written notice to the service supplier. The public safety agency shall commence to function as a PSAP or secondary PSAP as soon as feasible after giving the written notice.

(2) The costs of equipment installation or system modification, or both, necessary for a public safety agency to function as a secondary PSAP pursuant to subsection (1) shall be paid directly by the public safety agency and shall not be collected from service users in the 9-1-1 service district.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994

Popular Name: 9-1-1

***** 484.1502 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1502 Cessation of function as PSAP or secondary PSAP; notice; payment of costs for equipment removal or system modification.

Sec. 502.

(1) After installation and commencement of operation of a 9-1-1 system implemented under this act, a public safety agency serving a public agency or county within the 9-1-1 service district shall cease to function as a PSAP

or a secondary PSAP 60 days after giving written notice to the county clerk. Within 5 days after receipt of the notice, the county clerk shall forward the written notice to the service supplier.

(2) Notwithstanding any provision of this act, any costs incurred by a service supplier for equipment removal or system modification necessary for a public safety agency to cease functioning as a PSAP or secondary PSAP under subsection (1) shall be paid directly by the public safety agency.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1503 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1503 Adding jurisdiction of public agency to 9-1-1 service district; conditions.

Sec. 503.

After installation and commencement of operation of a 9-1-1 system implemented pursuant to this act, all or part of the jurisdiction of a public agency within the county shall be added to the 9-1-1 service district pursuant to section 504 if both of the following occur:

(a) The legislative body of the public agency adopts a resolution including all or part of the public agency within the 9-1-1 service district.

(b) A certified copy of the resolution adopted by the legislative body of the public agency is forwarded by certified mail, return receipt requested, to the county clerk.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986

Popular Name: 9-1-1

***** 484.1504 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1504 Forwarding certified copy of resolution to service supplier by certified mail; commencement of service and collection of state and county 9-1-1 charge.

Sec. 504.

Within 5 days after receipt of a certified copy of a resolution adopted by a public agency under section 503, the county clerk shall forward the certified copy of the resolution to the service supplier by certified mail, return receipt requested. Within a reasonable time after the service supplier receives the certified copy of the resolution, the service supplier shall commence 9-1-1 service to all or part of the jurisdiction of the public agency, as the case may be, and after commencement of the service shall commence the collection of the state and county 9-1-1 charge, in accordance with this act, from service users within all or part of the jurisdiction of the public agency added to the 9-1-1 service district.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1505 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1505 Withdrawal of jurisdiction; conditions.

Sec. 505.

(1) After installation and commencement of operation of a 9-1-1 system implemented pursuant to this act, a public agency all or part of which is included within a 9-1-1 service district may withdraw all or part of its jurisdiction from a 9-1-1 service district effective January 1 of the following year if all of the following occur:

(a) The public agency, after giving notice required in subdivisions (b) and (c), conducts a public hearing on the withdrawal at which all persons attending are afforded a reasonable opportunity to be heard.

(b) Written notice of the time, date, and place of the public hearing conducted by the public agency is given to the county clerk and the clerk of each public agency within the 9-1-1 service district, at least 30 days prior to the date of the hearing.

(c) Notice of the time, date, place, and purpose of the public hearing is published twice in a newspaper of general circulation within the public agency, the first publication of the notice occurring at least 30 days prior to the date of the hearing.

(d) After the public hearing on withdrawal but prior to 90 days before the end of the calendar year, the legislative body of the public agency adopts a resolution withdrawing all or part of the area of the public agency from the 9-1-1 service district. Such resolution shall describe the area of the public agency withdrawing from the 9-1-1 service district. The resolution shall also state the emergency telephone number to be used within the jurisdiction of the public agency following withdrawal from the 9-1-1 service district.

(e) Within 5 days after adoption of the resolution by the legislative body of the public agency, the clerk or other appropriate official of the public agency shall forward such resolution by certified mail, return receipt requested, to the county clerk. Within 5 days of receipt of a certified copy of the resolution adopted pursuant to this section, the county clerk shall forward such resolution by certified mail, return receipt requested, to the service suppliers providing or designated to provide 9-1-1 service to the area of the public agency withdrawing from the 9-1-1 service district.

(2) A public service agency may not withdraw any part of its jurisdiction from a 9-1-1 service district until all outstanding qualified obligations secured by emergency telephone operational charges incurred after the time of the addition of the public service agency to the 9-1-1 service area agreed to by the withdrawing public service agency and the remaining public service agencies comprising the 9-1-1 service district are paid or other provisions are made to pay the qualified obligations.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1999, Act 81, Imd. Eff. June 28, 1999

Popular Name: 9-1-1

484.1506 Repealed. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's Notes: The repealed section pertained to cessation of 9-1-1 service and duties of the service supplier.

Popular Name: 9-1-1

***** 484.1507 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1507 Contract with service supplier for 9-1-1 service.

Sec. 507.

This act shall not be construed to prohibit a public agency or a county from contracting with a service supplier for 9-1-1 service within all or part of the jurisdiction of the public agency or county and paying for such service directly from the funds of the public agency or county.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986

Popular Name: 9-1-1

Chapter VI

***** 484.1601 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1601 Technical assistance and assistance in resolving dispute.

Sec. 601.

The emergency 9-1-1 service committee created in section 712, upon request by a service supplier, county, public agency, or public service agency, shall provide, to the extent possible, technical assistance regarding the formulation or implementation, or both, of a 9-1-1 service plan and assistance in resolving a dispute between or among a service supplier, county, public agency, or public safety agency regarding their respective rights and duties under this act.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1989, Act 36, Imd. Eff. June 1, 1989 ;-- Am. 1999, Act 80, Eff. Oct. 27, 1999 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007

Compiler's Notes: Sec. 601, being MCL 484.1601 of the Michigan Compiled Laws, as originally enacted by 1986 PA 32 and amended by 1989 PA 36, was repealed by Section 2 of 1994 PA 29, Eff. Mar. 2, 1994. Subsequent to its repeal by 1994 PA 29, Sec. 601 was amended by 1999 PA 80, Eff. Oct. 27, 1999.

Popular Name: 9-1-1

***** 484.1602 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1602 Development of voluntary informal dispute resolution process; hearing dispute as contested case.

Sec. 602.

(1) The committee shall develop a voluntary informal dispute resolution process that can be utilized by any party in resolving any dispute involving the formulation, implementation, delivery, and funding of 9-1-1 services in this state.

(2) Except for a dispute between a commercial mobile radio service and a local exchange provider as defined under section 408, a dispute between or among 1 or more service suppliers, counties, public agencies, public service agencies, or any combination of those entities regarding their respective rights and duties under this act shall be heard as a contested case before the public service commission as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1989, Act 36, Imd. Eff. June 1, 1989 ;-- Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994 ;-- Am. 1999, Act 80, Eff. Oct. 27, 1999 ;-- Am. 2003, Act 244, Eff. Jan. 1, 2004 ;-- Am. 2004, Act 515, Imd. Eff. Jan. 3, 2005 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

484.1603 Repealed. 1989, Act 36, Imd. Eff. June 1, 1989.

Compiler's Notes: The repealed section pertained to review and findings regarding implementation of a 9-1-1 emergency service.

Popular Name: 9-1-1

***** 484.1604 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1604 Liability for civil damages.

Sec. 604.

Except for pro rata charges for the service during a period when the service may be fully or partially inoperative, a service supplier, public agency, PSAP, or an officer, agent, or employee of any service supplier, public agency, or PSAP, or an owner or lessee of a pay station telephone shall not be liable for civil damages to any person as a result of an act or omission on the part of the service supplier, public agency, PSAP, or an officer, agent, or employee of any service supplier, public agency, or PSAP, or an owner or lessee in complying with any provision of this act, unless the act or omission amounts to a criminal act or to gross negligence or willful and wanton misconduct.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986 ;-- Am. 1999, Act 80, Eff. Oct. 27, 1999

Popular Name: 9-1-1

***** 484.1605 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1605 Prohibited use of emergency 9-1-1 service; violation; penalty; exception.

Sec. 605.

(1) A person shall not use an emergency 9-1-1 service authorized by this act for any reason other than to call for an emergency response service from a primary public safety answering point.

(2) A person who knowingly uses or attempts to use an emergency 9-1-1 service for a purpose other than authorized in subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$5,000.00, or both.

(3) A person who violates subsection (2) and has 1 or more prior convictions under this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$10,000.00, or both.

(4) This section does not apply to a person who calls a public safety answering point to report a crime or seek assistance that is not an emergency unless the call is repeated after the person is told to call a different number.

History: Add. 1999, Act 80, Eff. Oct. 27, 1999 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

Chapter VII

484.1701-484.1707 Repealed. 1995, Act 247, Eff. Dec. 31, 1998.

Compiler's Notes: The repealed sections pertained to emergency telephone service committee.

Popular Name: 9-1-1

484.1711 Repealed. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's Notes: The repealed section pertained to definition of committee.

Popular Name: 9-1-1

***** 484.1712 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1712 Emergency 9-1-1 service committee; creation; purpose; authority and duties.

Sec. 712.

An emergency 9-1-1 service committee is created within the department of state police to develop statewide standards and model system considerations and make other recommendations for emergency telephone services. The committee shall only have the authority and duties granted to the committee under this act.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1713 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1713 Committee; membership; quorum; vote; chairperson; conduct of business; compensation and expenses of members.

Sec. 713.

(1) The committee shall consist of 21 members as follows:

- (a) The director of the department of state police or his or her designated representative.
- (b) The director of the department of licensing and regulatory affairs or his or her designated representative.
- (c) The chair of the Michigan public service commission or his or her designated representative.
- (d) The president of the Michigan Sheriffs' Association or his or her designated representative.
- (e) The president of the Michigan Association of Chiefs of Police or his or her designated representative.
- (f) The president of the Michigan Association of Fire Chiefs or his or her designated representative.
- (g) The executive director of the Michigan Association of Counties or his or her designated representative.
- (h) The executive director of the Deputy Sheriffs' Association of Michigan or his or her designated

representative.

(i) Three members of the general public, 1 member to be appointed by the governor, 1 member to be appointed by the speaker of the house of representatives, and 1 member to be appointed by the majority leader of the senate. The 3 members of the general public shall have expertise relating to telephone systems, rural health care concerns, or emergency radio communications, dispatching, and services. The members of the general public shall serve for terms of 2 years.

(j) The executive director of the Michigan Fraternal Order of Police or his or her designated representative.

(k) The president of the Michigan State Police Troopers Association or his or her designated representative.

(l) The president of the Michigan chapter of the Association of Public Safety Communications Officials or his or her designated representative.

(m) The president of the Michigan chapter of the National Emergency Number Association or his or her designated representative.

(n) The president of the Telecommunications Association of Michigan or his or her designated representative.

(o) The chair of the Upper Peninsula 9-1-1 Authority or his or her designated representative.

(p) The executive director of the Michigan Association of Ambulance Services or his or her designated representative.

- (q) The president of the Michigan Professional Firefighters Union or his or her designated representative.
- (r) The president of the Michigan Communications Directors Association or his or her designated representative.
- (s) One representative of commercial mobile radio service, to be appointed by the governor.
- (2) A majority of the members of the committee constitute a quorum for the purpose of conducting business and exercising the powers of the committee. Official action of the committee may be taken on a vote of a majority of the members of the committee.
- (3) The committee shall elect 1 of its members who is not a member of the wireline or commercial mobile radio service industry to serve as chairperson. The chairperson of the committee shall serve for a term of 1 year.
- (4) The committee may adopt, amend, and rescind bylaws, rules, and regulations for the conduct of its business.
- (5) Members of the committee shall serve without compensation, but are entitled to actual and necessary expenses incurred in the performance of official duties under this chapter.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

***** 484.1714 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1714 Duties of committee; staff assistance.

Sec. 714.

- (1) The committee shall do all of the following:
 - (a) Organize and adopt standards governing the committee's formal and informal procedures.
 - (b) Meet not less than 4 times per year at a place and time specified by the chairperson.
 - (c) Keep a record of the proceedings and activities of the committee.
 - (d) Provide recommendations to public safety answering points and secondary public safety answering points on statewide technical and operational standards for PSAPs and secondary PSAPs.
 - (e) Provide recommendations to public agencies concerning model systems to be considered in preparing a 9-1-1 service plan.
 - (f) Perform all duties as required under this act relating to the development, implementation, operation, and funding of 9-1-1 systems in this state.
 - (g) Provide notice to the service suppliers of any changes in the state or county 9-1-1 charge under sections 401a, 401b, and 401c.
- (2) The department of state police and the public service commission shall provide staff assistance to the committee as necessary to carry out the committee's duties under this act.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1715 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1715 Business conducted at public meeting.

Sec. 715.

The business which the committee may perform shall be conducted at a public meeting of the committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to

15.275.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999

Popular Name: 9-1-1

***** 484.1716 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1716 Availability of writing to public.

Sec. 716.

Except as otherwise provided under this act, a writing prepared, owned, used, in the possession of, or retained by the committee in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007

Popular Name: 9-1-1

***** 484.1717 THIS SECTION IS REPEALED BY ACT 126 OF 2021 EFFECTIVE DECEMBER 31, 2027

484.1717 Repeal of act.

Sec. 717.

This act is repealed effective December 31, 2027.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999 ;-- Am. 2006, Act 249, Imd. Eff. July 3, 2006 ;-- Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007 ;-- Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008 ;-- Am. 2012, Act 260, Eff. Jan. 1, 2013 ;-- Am. 2021, Act 126, Imd. Eff. Dec. 17, 2021

Popular Name: 9-1-1

MILITARY PERSONNEL WIRELESS CONTRACT ACT

Act 218 of 2010

AN ACT to allow certain active duty service members to terminate contracts with wireless telecommunications providers; to provide for the rights and responsibilities of the parties to those terminated contracts; to provide for the powers and duties of certain state officials; to prescribe civil sanctions and provide remedies; and to provide for the disposition of civil fines.

History: 2010, Act 218, Imd. Eff. Dec. 9, 2010

The People of the State of Michigan enact:

484.1901 Short title.

Sec. 1.

This act shall be known and may be cited as the "military personnel wireless contract act".

History: 2010, Act 218, Imd. Eff. Dec. 9, 2010

484.1902 Definitions.

Sec. 2.

As used in this act:

(a) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of congress, or an order of the governor.

(b) "Armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

(c) "Michigan national guard" means that term as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

(d) "Service member" means a member of the armed forces, a reserve branch of the armed forces, or the Michigan national guard.

History: 2010, Act 218, Imd. Eff. Dec. 9, 2010

484.1903 Contract with wireless telecommunications provider; termination; requirements.

Sec. 3.

If a service member is transferred, or deployed overseas, on active duty for a period of 179 days or more, to an area where the service member's existing wireless telecommunications provider does not offer facilities-based wireless service, the service member, or the spouse of a service member acting on behalf of that service member if he or she is authorized by the service member to make changes to the account, may terminate any contract with the wireless telecommunications provider that meets all of the following requirements:

(a) The service member is a party to the contract.

(b) The contract is entered into on or after the effective date of this act.

(c) The contract is executed before the service member is transferred, or deployed overseas, on active duty.

(d) The wireless telecommunications service provided under the contract is not wireless telecommunications service to a wireless telephone or other telecommunications device installed in a motor vehicle.

History: 2010, Act 218, Imd. Eff. Dec. 9, 2010

484.1904 Termination of contract; effective date; conditions.

Sec. 4.

A termination of a contract with a wireless telecommunications provider under section 3 is effective on the date all of the following are met:

(a) The service member who is transferred, or deployed overseas, on active duty, or the service member's spouse, provides the lessor by certified mail, return receipt requested, a written notice of the service member's

intention to terminate the contract, a copy of the military or gubernatorial orders transferring the service member or calling the service member to active duty, and a copy of any orders further extending the service member's period of active duty.

(b) Any wireless telecommunications equipment not owned by the service member acquired from the wireless telecommunications provider is returned to the custody or control of the wireless telecommunications provider within 30 days after the delivery of the written notice under subdivision (a).

History: 2010, Act 218, Imd. Eff. Dec. 9, 2010

484.1905 Charges incurred before termination; early termination charge.

Sec. 5.

(1) If a contract with a wireless telecommunications provider is terminated under this act, the service member remains responsible for any use charges incurred before termination.

(2) If a contract with a wireless telecommunications provider is terminated under this act, the wireless telecommunications provider may not impose an early termination charge for that termination.

History: 2010, Act 218, Imd. Eff. Dec. 9, 2010

484.1906 Violation of act; filing of civil action by attorney general; disposition of recovered money.

Sec. 6.

In addition to any other penalty that may be provided by law, the attorney general may file a civil action in which the court may impose on a wireless telecommunications provider that violates this act a civil fine of not more than \$2,000.00 for each violation. Money recovered under this section shall be forwarded to the state treasurer for deposit into the military family relief fund created in section 3 of the military family relief fund act, 2004 PA 363, MCL 35.1213.

History: 2010, Act 218, Imd. Eff. Dec. 9, 2010

484.1907 Act inapplicable to prepaid wireless telecommunications services.

Sec. 7.

This act does not apply to prepaid wireless telecommunications services.

History: 2010, Act 218, Imd. Eff. Dec. 9, 2010

MICHIGAN TELECOMMUNICATIONS ACT

Act 179 of 1991

AN ACT to regulate and insure the availability of certain telecommunication services; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; and to repeal acts and parts of acts.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 2008, Act 52, Imd. Eff. Mar. 28, 2008

The People of the State of Michigan enact:

Article 1

GENERAL PROVISIONS

484.2101 Short title; purpose.

Sec. 101.

(1) This act shall be known and may be cited as the "Michigan telecommunications act".

(2) The purpose of this act is to do all of the following:

(a) Ensure that every person has access to just, reasonable, and affordable basic residential telecommunication service.

(b) Allow and encourage competition to determine the availability, prices, terms, and other conditions of providing telecommunication services.

(c) Encourage the introduction of new services, the entry of new providers, the development of new technologies, and increase investment in the telecommunication infrastructure in this state through incentives to providers to offer the most efficient services and products.

(d) Improve the opportunities for economic development and the delivery of essential services including education and health care.

(e) Encourage the use of existing educational telecommunication networks and networks established by other commercial providers as building blocks for a cooperative and efficient statewide educational telecommunication system.

(f) Ensure effective and timely review and disposition of disputes between telecommunication providers.

(g) Authorize actions to encourage the development of a competitive telecommunication industry.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2102 Definitions.

Sec. 102.

As used in this act:

(a) "Access service" means access to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication services within the local exchange. Except for end-user common line services, access service does not include access service to a person who is not a provider.

(b) "Basic local exchange service" or "local exchange service" means the provision of an access line and usage within a local calling area for the transmission of high-quality 2-way interactive switched voice or data communication.

(c) "Broadband service" means a retail service capable of transmitting data over an access line at a rate greater than 200 kilobits per second.

(d) "Cable service" means 1-way transmission to subscribers of video programming or other programming services and subscriber interaction for the selection of video programming or other programming services.

(e) "Commission" means the Michigan public service commission.

(f) "Contested case" or "case" means a proceeding as defined in section 3 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.

(g) "Educational institution" means a public educational institution or a private non-profit educational institution approved by the department of education to provide a program of primary, secondary, or higher education, a public library, or a nonprofit association or consortium whose primary purpose is education. A nonprofit association or consortium under this subdivision shall consist of 2 or more of the following:

(i) Public educational institutions.

- (ii) Nonprofit educational institutions approved by the department of education.
- (iii) The state board of education.
- (iv) Telecommunication providers.
- (v) A nonprofit association of educational institutions or consortium of educational institutions.
- (h) "End user" means the retail subscriber of a telecommunication service.
- (i) "Energy management services" means a service of a public utility providing electric power, heat, or light for energy use management, energy use control, energy use information, and energy use communication.
- (j) "Exchange" means 1 or more contiguous central offices and all associated facilities within a geographical area in which basic local exchange service is offered by a provider.
- (k) "Information services" or "enhanced services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information, including energy management services, that is conveyed by telecommunications. Information services or enhanced services do not include the use of that capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (l) "Interconnection" means the technical arrangements and other elements necessary to permit the connection between the switched networks of 2 or more providers to enable a telecommunication service originating on the network of 1 provider to terminate on the network of another provider.
- (m) "License" means a license issued under this act.
- (n) "Line" or "access line" means the medium over which a telecommunication user connects into the local exchange.
- (o) "Local calling area" means a geographic area encompassing 1 or more local communities as described in maps, tariffs, or rate schedules filed with and approved by the commission.
- (p) "Local directory assistance" means the provision by telephone of a listed telephone number within the caller's area code.
- (q) "Local exchange rate" means the monthly and usage rate, including all necessary and attendant charges, imposed for basic local exchange service to customers.
- (r) "Loop" means the transmission facility between the network interface on a subscriber's premises and the main distribution frame in the servicing central office.
- (s) "Operator service" means a telecommunication service that includes automatic or live assistance to a person to arrange for completion and billing of a telephone call originating within this state that is specified by the caller through a method other than 1 of the following:
 - (i) Automatic completion with billing to the telephone from which the call originated.
 - (ii) Completion through an access code or a proprietary account number used by the person, with billing to an account previously established with the provider by the person.
 - (iii) Completion in association with directory assistance services.
- (t) "Operator service provider" or "OSP" means a provider of operator service.
- (u) "Payphone service" means a telephone call provided from a public, semipublic, or individually owned and operated telephone that is available to the public and is accessed by the depositing of coin or currency or by other means of payment at the time the call is made.
- (v) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.
- (w) "Person with disabilities" means an individual who has 1 or more of the following physical characteristics:
 - (i) Blindness.
 - (ii) Inability to ambulate more than 200 feet without having to stop and rest during any time of the year.
 - (iii) Loss of use of 1 or both legs or feet.
 - (iv) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.
 - (v) A lung disease from which the individual's expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the individual's arterial oxygen tension is less than 60 mm/hg of room air at rest.
 - (vi) A cardiovascular disease from which the individual measures between 3 and 4 on the New York heart classification scale, or from which a marked limitation of physical activity causes fatigue, palpitation, dyspnea, or anginal pain.
 - (vii) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.
- (x) "Port", except for the loop, means the entirety of local exchange, including dial tone, a telephone number, switching software, local calling, and access to directory assistance, a white pages listing, operator services, and interexchange and intra-LATA toll carriers.
- (y) "Public safety system" means a communication system operated by a public entity to provide emergency police, fire, medical, and other first responder services. Public safety system includes the Michigan state police communication system.
- (z) "Reasonable rate" or "just and reasonable rate" means a rate that is not inadequate, excessive, or

unreasonably discriminatory.

(aa) "Residential customer" means a person to whom telecommunication services are furnished predominantly for personal or domestic purposes at the person's dwelling.

(bb) "Special access" means the provision of access service, other than switched access service, to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication service within the exchange, including the use of local private lines.

(cc) "State institution of higher education" means an institution of higher education described in sections 4, 5, and 6 of article VIII of the state constitution of 1963.

(dd) "Telecommunications act of 1996" means Public Law 104-104.

(ee) "Telecommunication provider" or "provider" means a person that for compensation provides 1 or more telecommunication services. Telecommunication provider does not include a provider of commercial mobile service as defined in section 332(d)(1) of the telecommunications act of 1996, 47 USC 332.

(ff) "Telecommunication services" or "services" includes regulated and unregulated services offered to customers for the transmission of 2-way interactive communication and associated usage. A telecommunication service is not a public utility service.

(gg) "Toll service" means the transmission of 2-way interactive switched communication between local calling areas. Toll service does not include individually negotiated contracts for similar telecommunication services or wide area telecommunications service.

(hh) "Total service long run incremental cost" means, given current service demand, including associated costs of every component necessary to provide the service, 1 of the following:

(i) The total forward-looking cost of a telecommunication service, relevant group of services, or basic network component, using current least cost technology that would be required if the provider had never offered the service.

(ii) The total cost that the provider would incur if the provider were to initially offer the service, group of services, or basic network component.

(ii) "Wide area telecommunications service" or "WATS" means the transmission of 2-way interactive switched communication over a dedicated access line.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 1998, Act 41, Imd. Eff. Mar. 18, 1998 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2103 Construction of act; database of licensed providers; submission of information.

Sec. 103.

(1) Except as otherwise provided in this act, this act shall not be construed to prevent any person from providing telecommunication services in competition with another telecommunication provider.

(2) The commission shall maintain a publicly available database of providers in each exchange that are licensed to or otherwise provide toll and local exchange service in this state.

(3) A provider shall submit to the commission all information requested by the commission necessary for the preparation and maintenance of the database under this section.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011 ;-- Am. 2014, Act 52, Imd. Eff. Mar. 25, 2014

Article 2

MICHIGAN PUBLIC SERVICE COMMISSION

484.2201 Jurisdiction; authority; administration of act; consistency with federal laws, rules, orders, and regulations.

Sec. 201.

(1) Except as otherwise provided by this act or federal law, the commission has the jurisdiction and authority to administer this act and all federal telecommunications laws, rules, orders, and regulations that are delegated to the state, including, but not limited to, the authority to arbitrate and enforce interconnection agreements and to

establish rates in accordance with the standards set forth by applicable law.

(2) The commission shall exercise its jurisdiction and authority consistent with this act and all federal telecommunications laws, rules, orders, and regulations.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2202 Additional powers and duties; enforcement of rules; electronic filings; promulgation of new rules.

Sec. 202.

(1) In addition to the other powers and duties prescribed by this act, the commission shall do all of the following:

(a) Establish by order the manner and form in which telecommunication providers of regulated services within the state keep accounts, books of accounts, and records in order to determine the total service long-run incremental cost requirements of this act of providing a service. The commission requirements under this subdivision shall be consistent with any regulations covering the same subject matter made by the federal communications commission.

(b) Except as otherwise provided in this subdivision, require by order that a provider of a regulated service, including access service, make available for public inspection and file with the commission a schedule of the provider's rates, services, and conditions of service, including access service provided by contract. Except for access service, a provider is exempt from any commission order requiring that provider to file with the commission its rates, services, and conditions of regulated service if the provider files a certification with the commission opting out of the filing requirement. A certification under this subdivision shall be signed by an officer of the provider.

(c) Promulgate rules under section 213 to establish and enforce quality standards for all of the following:

(i) The provision of basic local exchange service to end users.

(ii) The provision of unbundled network elements and local interconnection services to providers that are used in the provision of basic local exchange service.

(iii) The timely and complete transfer of an end user from 1 provider of basic local exchange service to another provider.

(iv) Providers of basic local exchange service that cease to provide the service to any segment of end users or geographic area, go out of business, or withdraw from the state, including the transfer of customers to other providers and the reclaiming of unused telephone numbers.

(2) Rules promulgated under subsection (1)(c) shall include remedies for the enforcement of the rules that are consistent with this act and federal law. Rules promulgated under subsection (1)(c)(ii) shall not apply to the provision of unbundled network elements and local interconnection services subject to quality standards in an interconnection agreement approved by the commission. In promulgating any rules under subsection (1)(c), the commission shall consider to what extent current market conditions are sufficient to provide adequate service quality to basic local exchange service end users. Any service quality rules promulgated by the commission shall expire within 3 years of the effective date of the rules. The commission may, before the expiration of the rules, promulgate new rules under subsection (1)(c). However, the commission may promulgate new rules under subsection (1)(c)(iii) at any time. Any service quality rules promulgated by the commission under subsection (1)(c) (i) and any retail service quality rules promulgated before January 1, 2006 shall expire on June 30, 2011.

(3) The commission shall permit the electronic filing of any pleadings, tariffs, or any other document required or allowed to be filed with the commission under this act.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

Admin Rule: R 484.401 et seq. of the Michigan Administrative Code.

484.2203 Commencement of case; filing; emergency relief order; burden of proof; investigation; hearings; judicial review; continuation of service; posting security; alternative dispute process; additional relief; motion for stay.

Sec. 203.

(1) Upon receipt of an application or complaint filed under this act, or on its own motion, the commission may conduct an investigation, hold hearings, and issue its findings and order under the contested hearings provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) If a complaint filed under this section alleges facts that warrant emergency relief, the complainant may request an emergency relief order. On the date of filing, the complaint and request for emergency relief shall be hand-delivered to the respondent at its principal place of business in Michigan. The commission shall allow 5 business days for a filing in response to the request for emergency relief. The commission shall review the complaint, the request for emergency relief, the response, and all supporting materials and determine whether to deny the request for emergency relief or to conduct an initial evidentiary hearing. The initial evidentiary hearing shall be conducted within 5 business days from the date of the notice of hearing and the commission shall issue an order granting or denying the request for emergency relief. An order for emergency relief may require a party to act or refrain from action to protect competition. Any action required by an order for emergency relief shall be technically feasible and economically reasonable and the respondent shall be given a reasonable period of time to comply with the order. At the hearing for emergency relief, the respondent has the burden of showing that the order is not technically feasible and not economically reasonable. If the commission finds that extraordinary circumstances exist that warrant expedited review before the commission's issuance of a final order, it shall set a schedule providing for the issuance of a partial final order as to all or part of the issues for which emergency relief was granted within 90 days of the issuance of the emergency relief order.

(3) An order for emergency relief may be granted under subsection (2) if the commission finds all of the following:

- (a) That the party has demonstrated exigent circumstances that warrant emergency relief.
- (b) That the party seeking relief will likely succeed on the merits.
- (c) That the party will suffer irreparable harm in its ability to serve customers if emergency relief is not granted.
- (d) That the order is not adverse to the public interest.

(4) The commission may require the complainant to post a bond in an amount sufficient to make whole the respondent in the event that the order for emergency relief is later found to have been erroneously granted.

(5) An order for emergency relief shall expire upon the sooner of any of the following:

- (a) Ninety days after its issuance.
- (b) Issuance of the commission's partial final order.

(c) An earlier date set by the commission. Notwithstanding this subsection, the commission may extend the emergency relief order to a date no later than the date on which the final order in the proceeding is issued.

(6) An order granting or denying emergency relief under subsection (2) shall be subject to immediate review in the court of appeals as a matter of right by the party aggrieved. The review shall be de novo and shall comply with Michigan court rule 7.211(c)(6). The court may stay an order granting emergency relief upon the posting of a bond or other security in an amount and on terms set by the court. Regardless of whether an appeal is made under this subsection, the commission shall proceed with the case and issue a final order as otherwise required under this section.

(7) An application or complaint filed under this section shall contain all information, testimony, exhibits, or other documents and information within the person's possession on which the person intends to rely to support the application or complaint. Applications or complaints that do not meet the requirements of this subsection shall be dismissed or suspended pending the receipt by the commission of the required information. If the complainant or applicant requires information in the possession of the respondent, not within the complainant's or applicant's possession, the commission may allow a reasonable opportunity for discovery to allow the complainant or applicant to provide all relevant information, testimony, exhibits, or other documents on which the complainant or applicant intends to rely to support its application or complaint.

(8) The burden of proving a case filed under this act is with the party filing the application or complaint.

(9) In a contested case under this section, the commission can administer oaths, certify all official acts, and compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony.

(10) Except as otherwise provided in this section, the commission shall issue a final order in a case filed under this section within 90 days from the date the application or complaint is filed.

(11) Except as provided for a hearing involving a request for emergency relief, if a hearing is required, the applicant or complainant shall publish a notice of hearing as required by the commission within 7 days of the date the application or complaint was filed or as required by the commission. The first hearing shall be held within 10 days after the date of the notice. If a hearing is held, the commission shall have 180 days from the date the application or complaint was filed to issue its final order. If the principal parties of record agree that the complexity of issues involved requires additional time, the commission may have up to 210 days from the date the application or complaint was filed to issue its final order. If the application or complaint is subject to section 203a, the commission shall have an additional 60 days to issue its final order.

(12) An order of the commission under this act is subject to appellate review as of right in the court of appeals. The appeal shall be initiated by the filing of a claim of appeal with the court of appeals within 30 days of the issuance of an order or within 30 days of an order issued on a petition for rehearing of an order.

(13) If a complaint is filed under this section by a provider against another provider, the provider of service shall not discontinue service during the period of the contested case, including the alternative dispute process, if the provider receiving the service has posted a surety bond, provided an irrevocable letter of credit, or provided other adequate security in an amount and on a form as determined by the commission.

(14) Except if there is a request for emergency relief under this section, if the complaint filed under this section involves an interconnection dispute between providers, the commission shall require the parties to utilize the alternative dispute process under section 203a.

(15) In addition to any other relief provided by this act, the commission or a party may seek to compel compliance with a commission order by proceedings in mandamus, injunction, or by other appropriate civil remedies in the circuit court or other court of proper jurisdiction.

(16) Upon the filing of a motion for stay, the commission may, on terms as it considers just, stay the effect or enforcement of an order, except an order regarding rates or cost studies. A motion for stay, including a request for setting the amount of any appeal bond, are governed by the provisions for obtaining a stay of a civil action set forth in R 7.209 of the Michigan court rules. The commission shall decide a motion for stay within 10 days from the date the motion is filed with the commission.

History: 1991, Act 179, Imd. Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2203a Resolution of complaint by alternative means.

Sec. 203a.

(1) For all complaints involving a dispute of \$1,000.00 or less, a dispute under section 203(14), or upon the consent of all parties after the complaint is filed, for a period of 60 days after the date the complaint is filed under section 203, the parties shall attempt alternative means of resolving the complaint.

(2) Any alternative means that will result in a recommended settlement may be used that is agreed to by the principal parties of record, including, but not limited to, settlement conferences, mediation, and other informal dispute resolution methods. If the parties cannot agree on an alternative means within 10 days after the date the complaint is filed, the commission shall order mediation. Within the 60-day period required under subsection (1), a recommended settlement shall be made to the parties.

(3) Within 7 days after the date of the recommended settlement, each party shall file with the commission a written acceptance or rejection of the recommended settlement. If the parties accept the recommendation, then the recommendation shall become the final order in the contested case under section 203.

(4) If a party rejects or fails to respond within 7 days to the recommended settlement, then the application or complaint shall proceed to a contested case hearing under section 203.

(5) The party that rejects the recommended settlement shall pay the opposing party's actual costs of proceeding to a contested case hearing, including attorney fees, unless the final order of the commission is more favorable to the rejecting party than the recommended settlement under this section. A final order is considered more favorable if it differs by 10% or more from the recommended settlement in favor of the rejecting party.

(6) If the recommendation is not accepted under subsection (3), the individual commissioners shall not be informed of the recommended settlement until they have issued their final order under section 203.

(7) An attempt to resolve a contested case under this section is exempt from the requirements of section 203 and the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2204 Disagreement between telecommunication providers; application for resolution.

Sec. 204.

If 2 or more telecommunication providers are unable to agree on a matter relating to a regulated telecommunication service or a matter prohibited by section 305, then either telecommunication provider may file

with the commission an application for resolution of the matter.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2205 Investigation and resolution of service complaints.

Sec. 205.

The commission may investigate and resolve complaints under this act. The penalties under this act shall not be imposed for a violation that occurred more than 2 years before the date the complaint was filed.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2206 Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's Notes: The repealed section pertained to new telecommunication service.

484.2207 Repealed. 2005, Act 235, Imd. Eff. Nov. 22, 2005.

Compiler's Notes: The repealed section pertained to directory assistance service rates and quality of service.

484.2207a Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's Notes: The repealed section pertained to coin-operated telephones, direct-inward dialing, and touch-tone service.

484.2208 Repealed. 2005, Act 235, Imd. Eff. Nov. 22, 2005.

Compiler's Notes: The repealed section pertained to classification of service within competitive market.

484.2209 Awarding costs to prevailing party where frivolous position taken in proceeding; “frivolous” and “prevailing party” defined.

Sec. 209.

(1) If the commission finds that a party's position in a proceeding under this act was frivolous, the commission shall award to the prevailing party the costs, including reasonable attorney fees, against the nonprevailing party and

their attorney.

(2) As used in this section:

(a) "Frivolous" means that at least 1 of the following conditions is met:

(i) The party's primary purpose in initiating the proceeding or asserting the defense was to harass, embarrass, or injure the prevailing party.

(ii) The party had no reasonable basis to believe that the facts underlying that party's legal position were true.

(iii) The party's legal position was devoid of arguable legal merit.

(b) "Frivolous" does not mean a complaint filed to challenge a rate alteration increase for basic local service if the complaint has been reviewed by the commission and has not been dismissed by the commission pursuant to section 203(2).

(c) "Prevailing party" means a party who wins in the proceeding.

History: 1991, Act 179, Eff. Jan. 1, 1992

484.2210 Trade secrets and commercial or financial information; exemption from freedom of information act; protective order; confidentiality; presumption; information regarding settlement.

Sec. 210.

(1) Except under the terms of a mandatory protective order, trade secrets and commercial or financial information submitted under this act are exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) If information is disclosed under a mandatory protective order, then the information may be included in the commission's evidentiary record if admissible, but shall remain confidential.

(3) There is a rebuttable presumption that cost studies, customer usage data, marketing studies, and contracts between providers are trade secrets or commercial or financial information protected under subsection (1). The burden of removing the presumption under this subsection is with the party seeking to have the information disclosed.

(4) Information regarding settlement, including a recommended settlement issued by a mediator in a proceeding, shall be disclosed only to the parties to the proceeding unless all parties consent to disclosure. A mediator's recommended settlement may be disclosed to the commission after the commission has issued a final order. The administrative law judge assigned to any contested case proceeding arising from a mediation shall not be made aware of the acceptance or rejection by the parties of the recommended settlement, or the terms of the recommended settlement. The parties to the mediation shall not disclose or reveal the terms of the recommended settlement to anyone other than the parties to the mediation.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2211 Assessment.

Sec. 211.

Each telecommunication provider of a regulated service in this state shall pay an assessment in an amount equal to the expenses of the commission pursuant to Act No. 299 of the Public Acts of 1972, being sections 460.111 to 460.120 of the Michigan Compiled Laws.

History: 1991, Act 179, Eff. Jan. 1, 1992

484.2211a New or emerging technology; registration; information.

Sec. 211a.

A provider of any telecommunication service utilizing a new or emerging technology shall register with the commission. The registration shall include all of the following information:

- (a) The name of the provider.
- (b) A description of the services provided.
- (c) The address and telephone number of the provider's principal office.
- (d) The address and telephone number of the provider's registered agent authorized to receive service in this state.
- (e) Any other information the commission considers necessary.

History: Add. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2212 Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's Notes: The repealed section pertained to complaints, investigations, examinations, and proceedings pending as of January 1, 1992.

484.2213 Rules; rescission of certain rules.

Sec. 213.

(1) Subject to section 201 and limited to its specific authority over a service as provided under this act, the commission may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) A proceeding before the commission to promulgate rules under this act shall be concluded within 180 days from the date that the proceeding is initiated.

(3) The following administrative rules are rescinded:

(a) Privacy standards for telecommunication services, R 484.201 to R 484.208 of the Michigan administrative code.

(b) Billing standards for basic residential telecommunication service, R 484.301 to R 484.386 of the Michigan administrative code.

(c) Telecommunications service quality, R 484.519 to R 484.571 of the Michigan administrative code.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2004, Act 591, Imd. Eff. Jan. 4, 2005 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

Compiler's Notes: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

Admin Rule: R 484.401 et seq. of the Michigan Administrative Code.

484.2214 Community resource information and referral entity; designation as 2-1-1 answering point; designation as 2-1-1 coordinating agency.

Sec. 214.

(1) The commission shall issue orders that assign the telephone digits 2-1-1 to community resource information

and referral answering points established under subsection (3) and prescribe appropriate interconnection orders to carry out the intent of this section.

(2) Each provider of basic local exchange service in this state shall assign the telephone number 2-1-1 only to a community resource information and referral answering point established under subsection (3).

(3) The commission shall designate a community resource information and referral entity to be the 2-1-1 answering point for various geographical areas within this state. In making its determination, the commission shall consider all of the following:

- (a) The recommendations of Michigan 2-1-1, inc.
- (b) Whether the relevant state-endorsed community collaborative bodies are in agreement.
- (c) Whether the entity has established a framework to assure the provision of coverage of the 2-1-1 telephone number 24 hours per day, 7 days per week.
- (d) Whether the entity meets 2-1-1 standards adopted by the Michigan alliance for information and referral systems.

(4) Each community resource information and referral entity designated by the commission to be the 2-1-1 answering point for a particular geographical area within the state shall establish the framework to provide sufficient resources to operate the 2-1-1 telephone number 24 hours per day, 7 days per week.

(5) Not later than April 1, 2006, the commission shall designate an entity to serve as the state 2-1-1 coordinating agency. The designated agency shall assist and provide information and resources in implementing 2-1-1 service in this state. The designated agency shall also coordinate the providing of 2-1-1 services of the community resource information and referral entities designated under subsection (3).

(6) Before a state agency or local unit of government implements a community resource information or referral service, the state agency or local unit of government shall consult with the state 2-1-1 coordinating agency designated by the commission under subsection (5).

(7) By 2008, the commission shall issue orders that assign the telephone digits 2-1-1 to a statewide central routing system connecting regional community resource information and referral answering points established under subsection (3). Each provider of basic local exchange service in the state will reassign the telephone number 2-1-1 to the central system without additional charge.

History: Add. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

Article 2A LOCAL UNITS OF GOVERNMENT

484.2251-484.2254 Repealed. 2002, Act 48, Eff. Nov. 1, 2002.

Compiler's Notes: The repealed sections pertained to permits for access to right-of-way, easement, or public place.

484.2252 Telecommunication services offered by public entity.

Sec. 252.

(1) A public entity may provide telecommunication services within its boundaries if the public entity has complied with the requirements of section 14 of the metropolitan extension telecommunications right-of-way oversight act, 2002 PA 48, MCL 484.3114, and all of the following apply:

- (a) The public entity has issued a request for competitive sealed bids to provide telecommunication services.
- (b) The public entity has received less than 3 qualified bids from private providers.
- (c) It is more than 60 days from the date the request for bids was issued.
- (d) The public entity is providing the telecommunication services under the same terms and conditions as required under the request for bids issued pursuant to subdivision (a).

(2) Except as provided under subsection (3), a public entity shall not provide telecommunication services outside its boundaries.

(3) Two or more public entities may jointly request bids under subsection (1) and provide telecommunication services if all participating public entities meet the requirements of this section. If a public entity does not receive a qualified bid as required under subsection (1), the public entity may contract with another public entity to receive

telecommunication services.

(4) A public entity shall not establish a board or other entity for the purpose of providing regulation of a private provider of services under this section.

(5) This section does not apply to all of the following:

(a) Public safety systems.

(b) Systems used only for the internal use of the public entity or for the sharing of information between the public entity and another public entity.

(c) A public entity that is currently providing telecommunication services or that has held a public hearing by November 1, 2005 on a proposal to provide telecommunication services, or has issued a request for bids by November 1, 2005 to provide telecommunication services, or has an enforceable contract to begin construction of a telecommunication system by November 1, 2005.

(d) A public entity that is currently providing service in another public entity's boundaries.

(e) Services offered by a public entity to the public within a facility owned and operated by the public entity.

(f) Systems or services used or offered by 1 or more public entities or consortiums to advance or promote the public health, safety, and provision of e-government services.

(6) This section may not be construed to prevent a municipally-owned utility from providing to its energy customers, either directly or indirectly, any energy related service involving the transfer or receipt of information or data concerning the use, measurement, monitoring, or management of energy services provided by the municipally-owned utility, including services such as load management or automated meter reading.

(7) As used in this section, "public entity" means a county, city, village, township, or any agency or subdivision of the public entity.

History: Add. 2005, Act 235, Imd. Eff. Nov. 22, 2005

Article 3 REGULATED TELECOMMUNICATIONS SERVICES A. BASIC LOCAL EXCHANGE

484.2301 License to provide or resell basic local exchange service; temporary license.

Sec. 301.

(1) A telecommunication provider shall not provide or resell basic local exchange service in this state, without a license issued from the commission under this act.

(2) Pending the determination of an application for a license, the commission without notice and hearing may issue a temporary license for a period not to exceed 1 year.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2301a Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed section pertained to offer of primary basic local exchange service by licensed provider.

484.2302 Approval of application for license; required findings; retention of license and availability of information.

Sec. 302.

(1) After notice and hearing, the commission shall approve an application for a license if the commission finds both of the following:

(a) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service within the geographic area of the license and that the applicant intends to provide service within 1 year from the date the license is granted.

(b) The granting of a license to the applicant would not be contrary to the public interest.

(2) The commission shall retain a copy of all granted licenses and make all information contained in the licenses available to the public.

(3) Each provider granted a license shall retain a copy of the license at its principal place of business and make the license available for review to the public.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2303 Effect of sale or transfer of stock; addition, elimination, or modification of area code; prohibition; bankruptcy.

Sec. 303.

(1) The sale or transfer of shares of stock of a provider of basic local exchange service is not a sale or transfer of a license or a discontinuance of service.

(2) The commission has the authority to approve or deny a proposed addition, elimination, or modification of an area code in this state. The commission shall give public notice and shall conduct a public hearing in the affected geographic area before an addition, elimination, or modification of an area code is made in this state.

(3) A license issued under this act is not transferable to an unlicensed provider.

(4) In case of the bankruptcy of a licensed provider, the commission shall establish the procedures for the transfer of the license to another qualified provider.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2304 Local call; adjacent area; classification; total service long run incremental cost of provider with less than 10,000 end-users.

Sec. 304.

(1) A call made to a local calling area adjacent to the caller's local calling area is considered a local call and shall be billed as a local call. Effective December 31, 2007, a call made to a called party who is not located within the geographic area of the caller's local calling area or an adjacent local calling area as defined by the commission's order in case numbers U-12515 and U-12528, dated February 5, 2001, is not a local call if the tariff, service guide, or similar document containing the terms and conditions of the provider originating the call does not classify the call as a local call.

(2) A provider of basic local exchange service with less than 10,000 end-users in this state may determine that their total service long run incremental cost is the same as that of a provider with more than 250,000 end-users.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011 ;-- Am. 2014, Act 52, Imd. Eff. Mar. 25, 2014

484.2304a, 484.2304b Repealed. 2005, Act 235, Imd. Eff. Nov. 22, 2005.

Compiler's Notes: The repealed sections pertained to requirements for rate restructure and options for basic local exchange, toll, and access services.

484.2305 Provider of basic local exchange service; prohibited conduct.

Sec. 305.

A provider of basic local exchange service shall not do any of the following:

- (a) Discriminate against another provider by refusing or delaying access service to the local exchange.
- (b) Refuse or delay interconnections or provide inferior connections to another provider.
- (c) Degrade the quality of access service provided to another provider.
- (d) Impair the speed, quality, or efficiency of lines used by another provider.
- (e) Develop new services to take advantage of planned but not publicly known changes in the underlying network.
- (f) Refuse or delay a request of another provider for information regarding the technical design, equipment capabilities and features, geographic coverage, and traffic patterns of the local exchange network.
- (g) Refuse or delay access service or be unreasonable in connecting another provider to the local exchange whose product or service requires novel or specialized access service requirements.
- (h) Upon a request, fail to fully disclose in a timely manner all available information necessary for the design of equipment that will meet the specifications of the local exchange network.
- (i) Discriminate against any provider or any party who requests the information for commercial purposes in the dissemination of customer proprietary information. A provider shall provide without unreasonable discrimination or delay telephone directory listing information and related services to persons purchasing telephone directory listing information to the same extent and in the same quality as provided to the provider, affiliates of the provider, or any other listing information purchaser.
- (j) Refuse or delay access service by any person to another provider.
- (k) Bundle unwanted services or products for sale or lease to another provider.
- (l) Perform any act that has been prohibited by this act or an order of the commission.
- (m) Sell services or products, extend credit, or offer other terms and conditions on more favorable terms to an affiliate of the provider than the provider offers to other providers.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2305a Originating, forwarding, or terminating intrastate traffic; duties of provider; dispute resolution; violation; payment; fine; establishment of reciprocal compensation arrangement; payment of tariffed rate; authority of commission to resolve disputes.

Sec. 305a.

(1) Except as otherwise provided by federal law, where technically feasible, a provider originating or forwarding an intrastate call that is terminated on the network of another provider shall do all of the following:

(a) For originated calls, transmit the telephone number of the party originating the call. The telephone number shall be transmitted without alteration in the network signaling information.

(b) For forwarded calls, transmit the telephone number of the party originating the call to the extent that information has been provided by the originating carrier. The telephone number shall be transmitted without alteration in the network signaling information.

(2) The commission shall investigate complaints alleging violations of this section and may initiate proceedings under section 203 to resolve disputes between providers regarding identification of traffic and disputes regarding compensation rights and obligations between providers who originate, forward, or terminate intrastate traffic.

(3) If the commission determines that the telephone number has not been transmitted as required by this section, the provider against whom the complaint was filed shall demonstrate that it was not technically feasible to transmit the information, or that it had a legitimate business or other good faith reason for not transmitting the telephone number.

(4) If the commission determines that a provider violated this section, the commission shall determine if the violation resulted in a nonpayment or underpayment of compensation to the complaining provider under the terms of the parties' compensation agreement or its intrastate access tariff. The commission shall determine the amount of

the nonpayment or underpayment and order the violating provider to make payment. The commission shall assess a fine against the violating provider in an amount equal to 2 times the payment amount, and may take any other action authorized by Michigan law that it considers necessary.

(5) A provider that originates an intrastate call subject to section 251(b)(5) of the telecommunications act of 1996, 47 USC 251, shall agree to establish a reciprocal compensation arrangement for the termination of those calls. Originating and terminating providers shall agree to begin negotiations no more than 30 days after the originating provider receives a request from a terminating provider to establish an arrangement. During the negotiation period, reciprocal compensation rates shall be assessed by the terminating carrier under an interim arrangement with the originating carrier. Originating and terminating providers shall use good faith efforts to conclude negotiations and finalize an agreement within a reasonable time period.

(6) A provider that originates an intrastate intra-LATA call subject to a terminating carrier's intrastate access tariffs shall pay the tariffed rate for termination of the call.

(7) The commission may resolve disputes under this section between originating and terminating providers related to negotiation of the reciprocal compensation agreement and the payment of the tariffed rates.

History: Add. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2305b Duties.

Sec. 305b.

A provider of any telecommunication service shall do all of the following:

(a) Upon request, provide each customer a clear and simple explanation of the terms and conditions of the services purchased by the customer including, but not limited to, a statement of all fees, charges, and taxes that will be included in the customer's monthly bill.

(b) The statement required under subdivision (a) shall include a good faith estimate by the provider of the actual monthly cost that the customer will be required to pay if the service is purchased.

(c) Comply with all federal and state requirements regarding truth in billing, E 9-1-1 services, and basic local exchange service.

(d) If E 9-1-1 service is not available to the customer, ensure that the customer has an alternative means to reach emergency service responders.

History: Add. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2305c Emergency power requirements; compliance.

Sec. 305c.

A provider of basic local exchange service shall comply with the following emergency power requirements:

(a) A facilities-based provider shall equip each central office, remote switch, remote line unit, and interexchange toll switching office or access tandem with a minimum of 3 hours of peak load battery reserve, if permanent auxiliary power is installed, and 5 hours of battery reserve, if permanent emergency power is not installed, or 8 hours of battery reserve if the central office is in a remote location. A facilities-based provider shall have available a mobile power unit to be delivered and connected to central offices, remote switches, and remote line units within 8 hours.

(b) An E 9-1-1 service supplier shall provide 24-hour, 7-day-a-week database access to permit information to be acquired or corrected.

(c) A provider, E 9-1-1 service supplier, public safety answering point, or any entity providing or maintaining E 9-1-1 database information shall correct each error in the 9-1-1 system or database within 1 business day.

History: Add. 2011, Act 58, Imd. Eff. June 14, 2011

484.2306 Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed section pertained to offer of toll services by telecommunication provider of basic local exchange service.

484.2307 Educational institutions generally.

Sec. 307.

(1) Educational institutions shall have the authority to own, construct, and operate a telecommunication system or to purchase telecommunication services or facilities from an entity capable of providing the service or facility.

(2) Educational institutions that provide telecommunication services offered in subsection (3) shall not be subject to regulation under this act or by any other governmental unit.

(3) Educational institutions may only sell telecommunication services required for, or useful in, the instruction and training, including worker training, of students and other people utilizing the institution's educational services, the conducting of research, or the operation of the institution. The services shall not be considered basic local exchange services as long as they are used for the instruction and training of students and other people utilizing the institution's education services, the conducting of research, or the operation of the institution. Educational institutions may initiate and maintain cooperative arrangements with telecommunication providers without the institutions being subject to this act.

(4) Upon the request of an educational institution, telecommunication providers may provide to an educational institution services for the transmission of interactive data, voice and video communications between the institution's facilities or to the homes of students or employees of the institution, regardless of whether the exchanges are in the same or different LATAs.

(5) The rates for services provided to an educational institution by a provider under this section shall be determined by an open bid process.

(6) Except for a state institution of higher education, if an educational institution has excess capacity, it may sell the excess capacity subject to subsection (3) and to all of the following:

(a) The amount of capacity sold shall not exceed 25% of the institution's total capacity.

(b) The capacity shall not be sold below the total service long run incremental cost of the provider of basic local exchange service in the service area of the educational institution. If there is more than 1 provider in the service area, the educational institution shall use the lowest total service long run incremental cost.

(c) The educational institution has held not less than 1 public hearing on the proposed plan to sell the excess capacity. The educational institution shall give notice of the time and place of the public hearing not less than 15 days before the hearing by 1 publication in a newspaper of general circulation in the geographic area in which the excess capacity is to be sold. Notice shall also be provided on the educational institution's website.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2307a Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's Notes: The repealed section pertained to educational institutions services for transmission of interactive data and video communications.

484.2308 Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed section pertained to use of basic local exchange or access rates or proceeds from sale, lease, or transfer of rate acquired assets.

484.2309 Local directory assistance; 900 prefix services.

Sec. 309.

- (1) A provider of basic local exchange service shall provide to each customer local directory assistance.
- (2) A provider of basic local exchange service shall provide each customer at no additional charge the option of having access to 900 prefix services blocked through the customer's exchange service.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011 ;-- Am. 2021, Act 69, Imd. Eff. July 29, 2021

484.2309a, 484.2309b Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed sections pertained to cable service by provider of telecommunication service and collective bargaining activities undertaken by employees of provider of inter-LATA toll service.

B. TOLL ACCESS SERVICE

484.2310 Rates for toll access services; intrastate switched toll access rate; restructuring mechanism; establishment; administration; report; size; mandatory monthly contributions; modifications to size, operation, or composition of restructuring mechanism; proceedings; disputes; resolution; enforcement; information to be provided by providers; definitions.

Sec. 310.

- (1) Except as provided by this section, the commission shall not review or set the rates for toll access services.
- (2) A provider of toll access services shall set the rates for intrastate switched toll access services at rates that do not exceed the rates allowed for the same interstate services by the federal government and shall use the access rate elements for intrastate switched toll access services that are in effect for that provider and are allowed for the same interstate services by the federal government. Eligible providers shall comply with this subsection as of the date established for the commencement of the operation of the restructuring mechanism under subsection (9). Providers other than eligible providers shall not charge intrastate toll access service rates in excess of those rates in effect as of July 1, 2009 and shall reduce the differential, if any, between intrastate and interstate switched toll access service rates in effect as of July 1, 2009 in no more than 5 steps of at least 20% each of the differential on the following dates: January 1, 2011; January 1, 2012; January 1, 2013; January 1, 2014; and January 1, 2015. Providers may agree to a rate that is less than the rate allowed by the federal government.
- (3) Two or more providers that each have less than 250,000 access lines may agree to joint toll access service rates and pooling of intrastate toll access service revenues.
- (4) A provider of toll access services shall make available for intrastate access services any technical interconnection arrangements, including colocation required by the federal government for the identical interstate access services.
- (5) A provider of toll access service, whether under tariff or contract, shall offer the services under the same rates, terms, and conditions, without unreasonable discrimination, to all providers. All pricing of special toll access services and switched access services, including volume discounts, shall be offered to all providers under the same rates, terms, and conditions.
- (6) If a toll access service rate is reduced, then the provider receiving the reduced rate shall reduce its rate to its customers by an equal amount. The commission may investigate and ensure that the provider has complied with this

subsection.

(7) In order to restructure intrastate switched toll access service rates, there is hereby established in the department of licensing and regulatory affairs an intrastate switched toll access rate restructuring mechanism as a separate interest-bearing fund. The state treasurer shall direct the investment of the restructuring mechanism. Money in the restructuring mechanism shall remain in the restructuring mechanism at the close of the fiscal year and shall not revert to the general fund.

(8) An eligible provider is entitled to receive monthly disbursements from the restructuring mechanism as provided in subsection (11) in order to recover the lost intrastate switched toll access service revenues resulting from rate reductions under subsection (2).

(9) The restructuring mechanism shall be administered by the commission. The restructuring mechanism shall be established and shall begin operation by September 13, 2010. Subject to the preceding sentence, the commission shall establish the date for commencing the operation of the restructuring mechanism and shall notify the participants in the restructuring mechanism at least 30 days in advance of that date. The commission shall recover its actual costs of administering the restructuring mechanism from assessments collected for the operation of the restructuring mechanism.

(10) The commission shall establish the procedures and timelines for organizing, funding, and administering the restructuring mechanism. The commission shall report to the legislature and the governor annually regarding the administration of the restructuring mechanism. The report shall include the total amount of money collected from contributing providers, the total amount of money disbursed from the restructuring mechanism annually to each eligible provider, the costs of administration, and any other information considered relevant by the commission. The report shall also identify any duplicative costs or revenues that are already being recovered by eligible providers through federal access recovery charges or the connect America fund. If the commission identifies duplicative recovery, the commission shall notify the federal communications commission and all contributing providers. Any duplicative recovery identified by the commission is not exempt from public disclosure under section 210. Beginning with the first report following the recalculation required under subsection (16), the annual report shall include recommendations for altering the restructuring mechanism, based on the results of the recalculation and the state and federal regulations in effect at the time, to ensure that the restructuring mechanism is still achieving the purposes for which it was originally established. Any company-specific information pertaining to access lines, switched toll access services minutes of use, switched toll access demand quantities, contributions, and intrastate telecommunication services revenues submitted to the commission under this subsection are confidential commercial or financial information and exempt from public disclosure under section 210.

(11) The initial size of the restructuring mechanism shall be calculated as follows:

(a) By February 15, 2010 each eligible provider shall submit to the commission information and all the supporting documentation that establishes the amount of the reduction in annual intrastate switched toll access revenues that will result from the reduction in rates required in subsection (2). The reduction shall be calculated for each eligible provider as the difference between intrastate and interstate switched toll access service rates in effect as of July 1, 2009, multiplied by the intrastate switched access minutes of use and other switched access demand quantities for the calendar year 2008.

(b) The commission shall compute the size of the initial restructuring mechanism disbursements for each eligible provider and shall inform each eligible provider of that computation within 60 days after receiving the information and supporting documentation from the eligible providers under subdivision (a).

(12) The restructuring mechanism shall be created and supported by a mandatory monthly contribution by all providers of retail intrastate telecommunication services and all providers of commercial mobile service. Interconnected voice over internet protocol services shall not be considered an intrastate telecommunication service for the purposes of this section and interconnected voice over internet protocol service providers shall not be required to pay, directly or indirectly, the mandatory monthly contributions established in this subsection. A provider of telecommunication services to a provider of interconnected voice over internet protocol services shall not pay a mandatory monthly contribution related to those interconnected voice over internet protocol services or attempt to pass through any mandatory monthly contributions, directly or indirectly, to a provider of interconnected voice over internet protocol services. Nothing in this act grants the commission authority over commercial mobile service providers or voice over internet protocol service providers except as is strictly necessary for administration of the restructuring mechanism.

(13) By February 15, 2010, each contributing provider shall report its 2008 intrastate retail telecommunication services revenues to the commission. Notwithstanding anything in subsection (12), if the federal communications commission determines that interconnected voice over internet protocol services may be subject to state regulation for universal services purposes, the commission may open a proceeding to determine who is required to participate in a universal service fund.

(14) The initial contribution assessment percentage shall be a uniform percentage of retail intrastate telecommunication services revenues determined by projecting the total amount necessary to cover the initial intrastate switched toll access rate restructuring mechanism disbursement levels for 12 months, including projected cash reserve requirements, actual and projected administrative costs, and projected uncollectible contribution

assessments, divided by the 2008 calendar year total retail intrastate telecommunication services revenues in this state, less projected uncollectible revenues, reported to the commission. The commission shall issue an order establishing the initial calculation of the contribution assessment percentage by May 16, 2010. The commission may increase or decrease the contribution assessment on a quarterly or other basis as necessary to maintain sufficient funds for disbursements.

(15) Each contributing provider shall remit to the commission on a monthly basis an amount equal to its intrastate retail telecommunication services revenues, less uncollectible revenues, multiplied by the contribution assessment percentage determined under subsection (14), according to a time frame established by the commission. These contributions shall continue until the end of the period for which eligible providers are entitled to receive monthly disbursements from the restructuring mechanism under subsections (11) and (16).

(16) The commission shall recalculate the size of the restructuring mechanism for each eligible provider on March 13, 2018. The recalculation process shall be as follows:

(a) The restructuring mechanism shall be recalculated as the difference between the intrastate switched toll access rates in effect as of July 1, 2009 and the interstate switched toll access rates in effect at the time of the recalculation, multiplied by the intrastate switched toll access minutes of use and other switched access demand quantities for the calendar year 2008.

(b) The recalculated restructuring mechanism shall be further adjusted during the recalculation by the percentage change, if any, in the number of access lines in service for each eligible provider from December 31, 2008 to December 31 of the year immediately preceding the year in which the adjustment is made.

(c) Each eligible provider is entitled to receive monthly disbursements from the restructuring mechanism for a period of no more than 12 years from the date the restructuring mechanism is established under subsection (9), at which time the restructuring mechanism shall cease to exist.

(d) The commission shall reduce the amount of the monthly disbursement to an eligible provider from the restructuring mechanism on a pro rata basis for each exchange in which the provider discontinues basic local exchange service under section 313. A reduction under this subsection is effective on the date of the discontinuance of service.

(17) The money received and administered by the commission for the support and operation of the restructuring mechanism created by 2009 PA 182 shall not be used by the commission or any department, agency, or branch of the government of this state for any other purpose, and that money is not subject to appropriation, allocation, assignment, expenditure, or other use by any department, agency, or branch of the government of this state.

(18) If the federal government adopts intercarrier compensation reforms or takes any action that causes or requires a significant change in interstate switched toll access service rates, the commission may initiate, or any interested party may file an application for, a proceeding under section 203 within 60 days of that action to determine whether any modifications to the size, operation, or composition of the restructuring mechanism are warranted. During the pendency of that proceeding, the requirement in subsection (2) for eligible providers to set intrastate switched toll access service rates equal to interstate switched toll access service shall be temporarily suspended by those providers. Intrastate access rates may not be increased above the levels that exist at the time of the suspension. Following notice and hearing, upon a showing of good cause, the commission may stop or place certain conditions on the temporary suspension.

(19) If the federal government changes the federal universal service contribution methodology so that it is not based on a percentage of total interstate telecommunication services revenues, the commission shall modify the contribution methodology for the restructuring mechanism to be consistent with the federal methodology. The commission shall initiate a proceeding to modify the contribution methodology for the restructuring mechanism and to establish a reasonable time period for transition to the new contribution methodology.

(20) Disputes arising under this section may be submitted to the commission for resolution under sections 203 and 204.

(21) If any contributing provider subject to this section fails to make the required contributions or fails to provide required information to the commission, the commission shall initiate an enforcement proceeding under section 203. If the commission finds that a contributing provider has failed to make contributions or to perform any act required under this section, a contributing provider is subject to the remedies and penalties under section 601.

(22) Eligible providers and contributing providers shall provide information to the commission that is required for the administration of the restructuring mechanism. Company-specific information pertaining to access lines, switched toll access services minutes of use, switched toll access demand quantities, contributions, and intrastate telecommunication services revenues submitted to the commission under this subsection is confidential commercial or financial information and exempt from public disclosure under section 210.

(23) As used in this section:

(a) "Commercial mobile service" means that term as defined in section 332(d)(1) of the telecommunications act of 1996, 47 USC 332.

(b) "Contributing provider" means an entity required to pay into the restructuring mechanism.

(c) "Eligible provider" means an incumbent local exchange carrier as defined in section 251(h) of the telecommunications act of 1996, 47 USC 251, that as of January 1, 2009 had rates for intrastate switched toll

access services higher than its rates for the same interstate switched toll access services, and that provides the services and functionalities identified by rules of the federal communications commission described at 47 CFR 54.101(a).

(d) "Interconnected voice over internet protocol service" means that term as defined in 47 CFR 9.3.

(e) "Restructuring mechanism" means the intrastate switched toll access rate restructuring mechanism established in this section.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2009, Act 182, Imd. Eff. Dec. 17, 2009 ;-- Am. 2014, Act 52, Imd. Eff. Mar. 25, 2014

484.2310a Charging, assessing, or imposing intrastate subscriber line charge or end-user line charge; prohibition.

Sec. 310a.

After June 1, 2007, all providers of telecommunication services in this state shall not charge, assess, or impose on end-users an intrastate subscriber line charge or end-user line charge.

History: Add. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2311 Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed section pertained to imputation of prices of special toll access service and switched access by telecommunication providers of basic local exchange service.

C. TOLL SERVICE

484.2312 Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed section pertained to availability and rates for toll services.

484.2312a Repealed. 2005, Act 235, Imd. Eff. Nov. 22, 2005.

Compiler's Notes: The repealed section pertained to 1+intra-LATA toll dialing parity.

484.2312b Repealed. 1995, Act 216, Eff. July 1, 1997.

Compiler's Notes: The repealed section pertained to 1+ intra-LATA toll dialing parity.

484.2312c Use of payphone or toll service; receipt of rate quote; exception; "consumer" defined.

Sec. 312c.

(1) Before connecting any call, the operator service provider that owns or operates the payphone or contracts to provide toll service for the payphone provider shall at no charge disclose, audibly and distinctly, how the consumer may receive a rate quote.

(2) To receive a rate quote, the consumer shall have the option of either pressing a sequence of not more than 2 keys or staying on the line for assistance.

(3) The consumer shall not be assessed any charge for the use of the payphone or toll service if the consumer terminates the call after receiving the rate quote.

(4) This section does not apply to calls made by a consumer utilizing his or her toll provider of choice by dialing the provider's access service method.

(5) As used in this section, "consumer" means a person initiating a telephone call using an operator service. In collect calling arrangements handled by an operator service provider, the term consumer includes the party on the terminating end of the call. For bill-to-third party calling arrangements handled by an operator service provider, the term consumer includes the party to be billed for the call if that party is contacted by the operator service provider to secure billing approval.

History: Add. 2004, Act 561, Imd. Eff. Jan. 3, 2005

D. DISCONTINUANCE OF SERVICES

484.2313 Discontinuance of service.

Sec. 313.

(1) A telecommunication provider that provides either basic local exchange or toll service, or both, shall not discontinue either service to an exchange unless 1 or more alternative providers for toll service, or 2 or more alternative providers for basic local exchange service, are furnishing a comparable voice service to the customers in the exchange. A comparable voice service includes any 2-way voice service offered through any form of technology that is capable of placing and receiving calls from a provider of basic local exchange service, including voice over internet protocol services and wireless services.

(2) A telecommunication provider proposing to discontinue a regulated service to an exchange shall file a notice of the discontinuance of service with the commission, publish the notice in a newspaper of general circulation within the exchange, provide notice to each of its customers within the exchange by first-class mail or within customer bills, and provide other reasonable notice as required by the commission.

(3) Within 60 days after the date of publication or receipt of the notice required by subsection (2), a person or other telecommunication provider affected by a discontinuance of services by a telecommunication provider may apply to the commission to determine if the discontinuance of service is authorized under this act. Within 90 days after the date of publication of the notice required by subsection (2), the commission may, in response to a request or on its own initiative, commence a proceeding to determine if the discontinuance of service is authorized under this act. The commission has 180 days from the date any proceeding is initiated under this subsection to issue its final order. A provider shall not discontinue service unless it has provided at least 60 days' notice to each customer after a commission order has been issued under this subsection or after the last day for initiating a proceeding under this subsection.

(4) Discontinuance of basic local exchange service under this section by an incumbent local exchange carrier does not affect the requirements of that incumbent local exchange carrier under federal law and this act. As used in this subdivision, "incumbent local exchange carrier" means that term as defined in section 251(h) of the telecommunications act of 1996, 47 USC 251. This section does not create, restrict, or expand the commission's jurisdiction and authority for any of the following:

(a) The jurisdiction and authority established under section 201.

(b) The jurisdiction and authority to carry out the commission's obligations to enforce the rights, duties, and obligations of an entity that are established in sections 251 and 252 of the telecommunications act of 1996, 47 USC 251 and 252, and any applicable agreement or wholesale tariff or state law, rule, regulation, or order related to wholesale rights, duties, and obligations, including, but not limited to, interconnection and exchange voice traffic.

(c) The jurisdiction and authority to regulate switched access rates, terms, and conditions, including the implementation of federal or state law concerning intercarrier compensation.

(5) Subsections (1) to (3) do not apply after December 31, 2016. Beginning January 1, 2017, a telecommunication provider that provides basic local exchange or toll service may discontinue that service in an exchange by doing each of the following:

(a) At the same time as filing a petition under section 214 of the telecommunications act of 1996, 47 USC 214, all of the following:

- (i) File a notice of the proposed discontinuance of service with the commission.
- (ii) Publish a notice of the proposed discontinuance of service in a newspaper of general circulation within the exchange.
- (iii) Provide notice of the proposed discontinuance of service to each of the telecommunication provider's customers within the exchange by first-class mail or within customer bills.
- (iv) Provide notice of the proposed discontinuance of service to any interconnecting telecommunication providers by first-class mail or other notice permitted under the terms of the interconnection agreement between the providers.

(b) Upon approval of the federal communications commission to discontinue service, at least 90 days before discontinuing service, all of the following:

- (i) File a notice of the discontinuance of service with the commission.
- (ii) Publish a notice of the discontinuance of service in a newspaper of general circulation within the exchange.
- (iii) Provide notice of the discontinuance of service to each of the telecommunication provider's customers within the exchange by first-class mail or within customer bills.
- (iv) Provide notice to any interconnecting telecommunication providers by first-class mail or other notice permitted under the terms of the interconnection agreement between the providers.

(6) After January 1, 2017, and only in an area in which a telecommunication provider either has given notice of a proposed discontinuance of service under subsection (5) or has discontinued service within the previous 90 days, a customer of that provider or any interconnecting telecommunication provider may request the commission to investigate the availability of comparable voice service with reliable access to 9-1-1 and emergency services to that customer or a customer of an interconnecting telecommunication provider. If the commission, after conducting an investigation to last no longer than 180 days regarding the availability of comparable voice service with reliable access to 9-1-1 and emergency services, determines that the federal communications commission failed to make a finding that the present and future public convenience and necessity is not adversely affected or has not adequately addressed the issue, the commission shall declare by order that an emergency exists in an area in this state that is not served by at least 1 voice service provider offering comparable voice service with reliable access to 9-1-1 and emergency services through any technology or medium and shall conduct a request for service process to identify a willing provider of comparable voice service with reliable access to 9-1-1 and emergency services in that area, including the current provider. A provider shall not be required to participate in the request for service process. The willing provider may utilize any form of technology that is capable of providing comparable voice service with reliable access to 9-1-1 and emergency services, including voice over internet protocol services and wireless services. If the commission determines that another provider is not capable of providing comparable voice service with reliable access to 9-1-1 and emergency services in that area, the commission shall issue an order requiring the current telecommunication provider to provide comparable voice service with reliable access to 9-1-1 and emergency services in that area utilizing any form of technology that the commission determines is capable of providing comparable voice service with reliable access to 9-1-1 and emergency services, including voice over internet protocol services and wireless services, until another willing provider is available. An intrastate universal service fund under section 316a shall not be created or used to compensate or fund a willing provider or current telecommunication provider to provide service under this section. As used in this subsection:

(a) "Comparable voice service" includes any 2-way voice service offered through any form of technology, including voice over internet protocol services and wireless services, that is capable of placing calls to and receiving calls from a provider of basic local exchange service.

(b) "Emergency services" means services provided to the public by police, fire, ambulance, or other first responders.

(c) "Reliable access to 9-1-1" means the rules, regulations, and guidelines set forth in the FCC trials order, including all appendices, that provide comparable and reliable consumer access to emergency services.

(d) "Willing provider" means a provider that voluntarily participates in the request for service process.

(7) Beginning January 1, 2017, a telecommunication provider that discontinues service under this section shall adhere to all rules, regulations, and guidelines set forth in the FCC trials order, including all appendices, for each of that telecommunication provider's exchanges in this state, whether or not the discontinuance is undertaken pursuant to an official trial under the FCC trials order, except that all notices or reports to be filed with the federal communications commission shall be submitted to the Michigan public service commission for its information. This subsection is effective until the federal communications commission determines the legal and policy framework and establishes the requirements for the IP-transition including emergency connectivity requirements that provide comparable and reliable consumer access to emergency services.

(8) As used in this section, "FCC trials order" means the order of the federal communications commission, GN

docket nos. 13-5 and 12-353, adopted January 30, 2014, and any subsequent order of the federal communications commission modifying or revising that order that includes emergency connectivity requirements that provide comparable and reliable consumer access to emergency services.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011 ;-- Am. 2014, Act 52, Imd. Eff. Mar. 25, 2014

484.2314 Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed section pertained to discontinuing of regulated services for failure by customer to pay rate or charge imposed for unregulated service.

484.2314a Customer on active duty in military; shut-off protection.

Sec. 314a.

(1) Except as otherwise provided by this section, a telecommunication provider shall not discontinue basic local exchange telecommunication service to the residence of a qualifying customer who has made a filing under this section. A customer making a filing under this section shall retain the telephone number assigned to the customer on the date of the filing.

(2) A qualifying customer may apply for shut-off protection for telecommunication service under this section by notifying the provider that the qualifying customer is in need of assistance caused by a reduction in household income through a call to active duty status in the military.

(3) A provider of service may request verification of the call to active duty status from the qualifying customer. A provider of service may also request verification of the qualified customer's reduction in household income.

(4) A provider of service may require restrictions or elimination of calling features or toll service as a condition of granting a qualifying customer's request for shut-off protection under this section.

(5) A qualifying customer may receive shut-off protection from the provider of service under this section for up to 90 days. Upon application to the provider, the provider may grant the qualifying customer 1 or more extensions.

(6) A qualifying customer receiving assistance under this section shall notify the provider of the end of the call to active duty status as soon as that status is known.

(7) Unless waived by the provider, the shut-off protection provided under this section does not void or limit the obligation of the qualifying customer to pay for telecommunication services received during the time of assistance.

(8) Within 48 hours of receiving all information requested of the qualifying customer, a provider shall do all of the following:

(a) Create a repayment plan requiring minimum monthly payments that allows the qualifying customer to pay any past due amounts over a reasonable time period not to exceed 1 year.

(b) Provide a qualifying customer with information regarding any governmental, provider, or other assistance programs.

(9) This section does not affect or amend any commission rules or orders pertaining to billing standards. If the terms and conditions arranged by the provider with the qualifying customer under subsection (8) are not followed by the customer, then the provider shall follow procedures as set forth in the commission's billing standards for basic residential telecommunication service.

(10) As used in this section, "qualifying customer" means all of the following:

(a) A residential household where the income is reduced because the customer of record, or the spouse of the customer of record, is called to active military service by the president of the United States or the governor of this state during a time of declared national or state emergency or war.

(b) Assistance is needed by the residential household to maintain telecommunication service.

(c) The residential household notifies the provider of the need for assistance and provides verification of the call to active duty status.

History: Add. 2003, Act 206, Imd. Eff. Nov. 26, 2003 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2314b Person certified as deaf or hard of hearing or speech-impaired; shut-off protection.

Sec. 314b.

(1) Except as otherwise provided by this section, a telecommunication provider shall not discontinue basic local exchange telecommunication service to a residence of a person who is certified as deaf or hard of hearing, or speech-impaired by a licensed physician, licensed audiologist, or qualified state agency, who has made a filing under this section.

(2) A deaf or hard of hearing, or speech-impaired customer may apply for shut-off protection for telecommunication services under this section by notifying the provider that the deaf or hard of hearing, or speech-impaired customer is in need of assistance caused by a reduction in household income.

(3) A provider of service may request verification of the reduction in household income from the deaf or hard of hearing, or speech-impaired customer.

(4) A provider of service may require restrictions or elimination of calling features or toll service as a condition of granting a deaf or hard of hearing, or speech-impaired customer's request for shut-off protection under this section. The provider shall not restrict the deaf or hard of hearing, or speech-impaired customer's access to a telecommunication relay service required under section 315.

(5) A deaf or hard of hearing, or speech-impaired customer may receive shut-off protection from the provider of service under this section for up to 90 days. Upon application to the provider, the provider may grant the qualifying customer 1 or more extensions.

(6) Unless waived by the provider, the shut-off protection provided under this section does not void or limit the obligation of the qualifying customer to pay for telecommunication services received during the time of assistance.

(7) Within 48 hours of receiving all information requested of the deaf or hard of hearing, or speech-impaired customer, a provider shall do all of the following:

(a) Create a repayment plan requiring minimum monthly payments that allows the deaf or hard of hearing, or speech-impaired customer to pay any past due amounts over a reasonable time period not to exceed 1 year.

(b) Provide a deaf or hard of hearing, or speech-impaired customer with information regarding any governmental, provider, or other assistance programs.

(8) This section does not affect or amend any commission rules or orders pertaining to billing standards. If the terms and conditions arranged by the provider with the deaf or hard of hearing, or speech-impaired customer under subsection (7) are not followed by the customer, then the provider shall follow procedures as set forth in the commission's billing standards for basic residential telecommunication service.

History: Add. 2005, Act 235, Imd. Eff. Nov. 22, 2005

E. SERVICES FOR THE DEAF, DEAFBLIND, HARD OF HEARING, OR SPEECH-IMPAIRED

484.2315 Text telephone-telecommunications device for deaf, deafblind, hard of hearing, or speech-impaired; relay service; rates and charges; discounts; recovery of costs.

Sec. 315.

(1) The commission shall require each provider of basic local exchange service to provide a text telephone-telecommunications device for the deaf at cost to each individual who is certified as deaf, deafblind, hard of hearing, or speech-impaired by a licensed physician, licensed audiologist, or qualified state agency, and to each public safety answering point as defined in section 102 of the emergency 9-1-1 service enabling act, 1986 PA 32, MCL 484.1102.

(2) The commission shall require each provider of basic local exchange service to provide a telecommunication relay service whereby individuals using a text telephone-telecommunications device for the deaf can communicate with individuals using a voice telephone through the use of third party intervention or automated translation. Each provider of basic local exchange service shall determine whether to provide a telecommunication relay service on its own, jointly with other basic local exchange providers, or by contract with other telecommunication providers. The commission shall determine the technical standards and essential features of text telephone and telecommunication relay service to ensure their compatibility and reliability.

(3) Rates and charges for calls placed through a telecommunication relay service shall not exceed the rates and charges for calls placed directly from the same originating location to the same terminating location. Unless ordered

by the commission, a provider of a telecommunications relay service is not required to handle calls from public telephones except for calls charged collect or to cash, a credit card, or a third party number.

(4) Notwithstanding any other provision of this act, a provider may offer discounts on toll calls where a text telephone-telecommunications device for the deaf is used. The commission shall not prohibit such discounts on toll calls placed through a telecommunication relay service.

(5) The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section and may waive the costs assessed under this section to individuals who are deaf, deafblind, hard of hearing, or speech-impaired. The rate established by the commission under this subsection may be assessed as a line item on an end-user's bill.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011 ;-- Am. 2016, Act 237, Eff. Sept. 22, 2016

F. LIFELINE SERVICES

484.2316 Rates for low-income basic local exchange service customers; reduction; qualifications; exception; notification of lifeline services; provider opt out.

Sec. 316.

(1) Except as provided under subsection (10), the commission shall require each provider of basic local exchange service to offer certain low-income customers the availability of basic local exchange service and access service at reduced rates as described in subsections (2) and (3).

(2) Except as provided under subsections (3) and (4), the rate reductions for low-income customers must be, at a minimum, 20% of the basic local exchange rate or \$8.25, inclusive of any federal contribution, whichever is greater.

(3) Except as provided under subsection (4), if the low-income customer is 65 years of age or older, the rate reduction must be, at a minimum, 25% of the basic local exchange rate or \$12.35, inclusive of any federal contribution, whichever is greater.

(4) The total reduction under subsection (2) or (3) must not exceed 100% of all end-user common line charges and the basic local exchange rate. The dollar amounts in subsections (2) and (3) must be adjusted annually to reflect any increases or decreases in the federal contribution.

(5) Until December 31, 2019, to qualify for the reduced rate under this section, an individual's annual income must not exceed 150% of the federal poverty guidelines published annually in the Federal Register by the United States Department of Health and Human Services and as approved by the state treasurer, or the individual must participate in 1 of the following federal assistance programs:

- (a) Medicaid.
- (b) Food stamps.
- (c) Supplemental security income.
- (d) Federal public housing assistance.
- (e) Low-income home energy assistance program.
- (f) National school lunch program's free lunch program.
- (g) Temporary assistance for needy families.

(6) Beginning January 1, 2020, the criteria to qualify for the reduced rate under this section is the same criteria to qualify for the federal Lifeline program as set forth in 47 CFR 54.409.

(7) Beginning January 1, 2020, if an individual does not meet the qualifying criteria under subsection (6) and is no longer qualified to receive the reduced rate under this section, he or she may continue to receive the reduced rate if all of the following apply:

- (a) The individual received the reduced rate under this section before January 1, 2020.
- (b) The individual continues to meet the qualifying criteria under subsection (5).
- (c) If the provider requires annual recertification, the individual recertifies with his or her provider annually.

(8) On request of a provider of basic local exchange service, the commission shall establish a rate for each subscriber line of that provider to allow the provider to recover costs incurred under this section. A rate established by the commission under this subsection may be assessed as a line item on an end-user's bill.

(9) The commission shall take necessary action to notify the general public of the availability of lifeline services including, but not limited to, public service announcements, newspaper notices, and any other notice reasonably calculated to reach those who may benefit from the services.

(10) Beginning August 30, 2022, if a provider of basic local exchange service provides 90 days' written notice to the commission and to all individuals receiving the reduced rate under this section, the provider may, beginning

November 30, 2022, opt out of offering the reduced rate described under this section.

(11) If a provider opts out of offering the reduced rate described under this section, the provider is exempt from complying with a commission order requiring the provider to offer a reduced rate to low-income customers.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 1997, Act 183, Imd. Eff. Dec. 30, 1997 ;-- Am. 1999, Act 31, Imd. Eff. May 28, 1999 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011 ;-- Am. 2020, Act 34, Imd. Eff. Mar. 3, 2020

484.2316a Definitions; creation of intrastate universal service fund; provision of supported telecommunication services.

Sec. 316a.

(1) As used in this section:

(a) "Affordable rates" means, at a minimum, rates in effect on January 1, 2006 or as determined by the commission.

(b) "Intrastate universal service fund" means a fund created by the commission to provide a subsidy to customers for the provision of supported telecommunication services provided by any telecommunication carrier.

(c) "Supported telecommunication services" means primary residential access lines and a minimum level of local usage on those lines, as determined by the commission.

(d) "Universal service" shall mean the provision of supported telecommunication services by any carrier.

(2) The commission shall determine for each provider whether and to what extent the affordable rate level to provide supported telecommunication services is below each provider's forward looking economic cost of the supported telecommunication services.

(3) If an intrastate universal fund is created under this section, to the extent providers provide supported telecommunication services at an affordable rate that is below the forward looking economic cost of the supported telecommunication services, the fund shall provide a subsidy for customers in an amount which is equal to the difference between the affordable rate as determined by the commission and the forward looking economic cost of the supported services, less any federal universal service support received for those supported services.

(4) Eligibility for customers to receive intrastate universal service support under subsection (3) shall be consistent with the eligibility guidelines of section 254(e) of the telecommunications act of 1996 and the rules and regulations of the federal communications commission. The state fund shall be administered by an independent third-party administrator selected by the commission.

(5) To the extent an intrastate universal service fund is established, the commission shall require that the costs of the fund be recovered from all telecommunication providers on a competitively neutral basis. Providers contributing to the intrastate universal service fund may recover from end-users the costs of the financial support through surcharges assessed on end-users' bills.

(6) Upon request or on its own motion, the commission, after notice and hearing, shall determine if, based upon changes in technology or other factors, the findings made under this section should be reviewed.

(7) This section does not apply if an interstate universal service fund exists on the federal level unless otherwise approved by the commission.

History: Add. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

G. OPERATOR SERVICE PROVIDERS

484.2317 Operator service providers; registration required; fee; connection of emergency call to emergency responder service.

Sec. 317.

(1) An operator service provider shall not provide operator services in this state without first registering with the commission. The registration shall include the following information:

(a) The name of the provider.

- (b) The address of the provider's principal office.
- (c) If the provider is not located in this state, the address of the registered office and the name of the registered agent authorized to receive service of process in this state.
- (d) Any other information that the commission may require.
- (2) The registration shall be accompanied with a registration fee of \$100.00.
- (3) The registration is effective immediately upon filing with the commission and the payment of the registration fee.
- (4) At no charge, an operator service provider shall immediately connect a person making an emergency call to an emergency responder service.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2014, Act 52, Imd. Eff. Mar. 25, 2014

H. PAYPHONE SERVICES

484.2318 Payphone service; discrimination prohibited; compliance with nonstructural safeguards.

Sec. 318.

- (1) A provider of basic local exchange service shall not discriminate in favor of its or an affiliate's payphone service over similar services offered by another provider.
- (2) A provider of payphone service shall comply with all nonstructural safeguards adopted by the federal communications commission for payphone service.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995

484.2319 Repealed. 2005, Act 235, Imd. Eff. Nov. 22, 2005.

Compiler's Notes: The repealed section pertained to rate of compensation a provider of toll service is to compensate provider of payphone service.

484.2320 Payphone service; registration required; report of inoperative payphone; notification; rules or orders; regulation of service by local unit of government.

Sec. 320.

- (1) A person shall not provide payphone service in this state without first registering with the commission. The registration shall include all of the following information:
 - (a) The name of the provider.
 - (b) The address and telephone number of the provider's principal office.
 - (c) If the provider is not located in this state, the address and telephone number of the registered office and the name and telephone number of the registered agent authorized to receive service of process in this state.
 - (d) The specific location of each payphone in this state owned or operated by the provider. Information required under this subdivision shall be made available to the local unit of government solely for the enforcement of the reporting, repairing, and replacement standards under subsection (8). The information required to be provided under this subsection is considered commercial information under section 210, and the information submitted is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (2) The registration shall be accompanied by a registration fee of \$100.00.
- (3) The registration is effective immediately upon filing with the commission and the payment of the registration fee.
- (4) The commission shall establish a toll-free number that can be dialed to report to the commission a payphone

that is inoperative. The toll-free number shall be conspicuously displayed by the provider on or near each payphone.

(5) If the commission receives a report under subsection (4), it shall immediately notify the provider of the inoperative payphone.

(6) After consulting with providers of payphone service, local units of government, and other interested parties, the commission shall promulgate rules or issue orders under section 213 to establish and enforce quality standards in the providing of payphone service.

(7) Except as provided in subsection (8), a local unit of government shall not regulate payphone service.

(8) A local unit of government may enforce the reporting, repairing, and replacement of inoperative payphones within its jurisdiction by adopting an ordinance that conforms to the standards established by the commission under subsection (6). A local unit of government shall not impose standards greater than those established by the commission.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2014, Act 52, Imd. Eff. Mar. 25, 2014

I. REGULATED RATES

484.2321 Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed section pertained to charging rate for service that is less than the total service long run incremental cost of providing service.

484.2322 Repealed. 2005, Act 235, Imd. Eff. Nov. 22, 2005.

Compiler's Notes: The repealed section pertained to definitions and access to broadband internet access transport services.

Article 3A

INTERCONNECTION OF TELECOMMUNICATION PROVIDERS WITH THE BASIC LOCAL EXCHANGE SERVICE

484.2351 Providers of basic local exchange service or basic local exchange and toll service; applicability of article.

Sec. 351.

Until January 1, 2000 and except for section 361, this article does not apply to providers who, together with any affiliated providers, provide basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state on January 1, 1996.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995

484.2352 Rates for basic local exchange service for interconnection; rates for network elements, unbundled loops, number portability, and termination of local traffic.

Sec. 352.

(1) The rates of a provider of basic local exchange service for interconnection under this article shall be at the provider's total service long run incremental cost of providing the service.

(2) The rates for network elements and combinations of network elements, unbundled loops, number portability, and the termination of local traffic shall be the rates established by the commission.

(3) The rate of a network element shall not exceed either of the following:

(a) The tariffed or contract rate a retail customer or affiliate is or would be charged for the element, service, or its functional equivalent.

(b) The rate and other appropriate charges, or portions of charges, if any, to be determined by the commission, of a retail service which includes the same network element less the total service long run incremental costs of all other components that together form the same retail service.

(4) If the network element imputation test in subsection (3) is not met, the unbundled network element rate shall be reduced until the network element rate meets that standard.

(5) Existing network element rates may be revised or new network element rates established by the commission after notice and hearing. To initiate a proceeding under this subsection, a party shall file with the commission a petition to establish or alter network element rates. The petition shall clearly state the proposed rate or rates and include reasonable documentary support for the proposed rate or rates. If the petitioner seeks an increase to a previously commission ordered rate, the petitioner shall demonstrate that the proposed revision results from an increase in underlying cost and the increase in underlying cost has been reflected in retail rates.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2353 Report and recommendations.

Sec. 353.

The commission shall issue a report and make recommendations to the legislature and the governor on or before January 1, 2007 involving the issues, scope, terms, and conditions of interconnection of telecommunication providers with the basic local exchange service.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2353a Interconnection agreement; negotiation.

Sec. 353a.

(1) When negotiating a successor interconnection agreement, unless the parties agree otherwise, the parties shall use an interconnection agreement which has been approved by the commission in the 3-year period immediately preceding the commencement of negotiations as the baseline document.

(2) If a party negotiating an interconnection agreement takes a position that the opposing party believes is contrary to a prior ruling of the commission in an arbitration proceeding, the opposing party may file a motion with the commission for a determination under this section. The motion shall be filed no later than 90 days from the commencement of negotiations. The commission shall rule upon the motion within 21 days of the date the motion is filed, and the commission shall determine the extent to which the issue may be relitigated.

History: Add. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

A. JOINT MARKETING

484.2354 Repealed. 2005, Act 235, Imd. Eff. Nov. 22, 2005.

Compiler's Notes: The repealed section pertained to prohibited actions by provider of basic local exchange service.

B. SERVICE UNBUNDLING

484.2355 Service unbundling and separate pricing.

Sec. 355.

(1) A provider of basic local exchange service shall unbundle and separately price each basic local exchange service offered by the provider into the loop and port components and allow other providers to purchase such services on a nondiscriminatory basis.

(2) Unbundled services and points of interconnection shall include at a minimum the loop and the switch port.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

484.2356 Co-location with other providers.

Sec. 356.

A provider of local exchange service shall allow and provide for virtual co-location with other providers at or near the central office of the provider of local exchange service of transmission equipment that the provider has exclusive physical control over and is necessary for efficient interconnection of the unbundled services. Providers may enter into an agreement that allows for interconnection on other terms and conditions than provided under this subsection.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995

C. RESALE OF LOCAL EXCHANGE SERVICE

484.2357 Basic local exchange services; availability for resale; wholesale rates; applicability of section.

Sec. 357.

(1) A provider of local exchange service shall make available for resale on nondiscriminatory terms and conditions all basic local exchange services that on January 1, 1996 it is offering to its retail customers. Resale shall be provided on a wholesale basis.

(2) Except for restrictions on resale, a provider of local exchange service may include in its wholesale tariffs any use or class of customer restrictions it includes in its retail tariffs.

(3) A provider of local exchange service is not required to offer for resale either of the following:

(a) A package of services where basic local exchange service is jointly marketed or combined with other services, or for any promotional or discounted offering of basic local exchange service.

(b) Services for which the provider does not have existing facilities in place to serve the intended end user, or any service offered for the first time subsequent to March 1, 1996.

(4) Each provider of local exchange service shall file tariffs with the commission which set forth the wholesale rates, terms, and conditions for basic local exchange services. The wholesale rates shall be set at levels no greater than the provider's current retail rates less the provider's avoided costs.

(5) Wholesale rates shall not be less than the provider's total service long run incremental cost of the services.

(6) This section does not apply after December 31, 2007.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

D. NUMBER PORTABILITY

484.2358 "Number portability" defined; requirements.

Sec. 358.

(1) As used in this section, "number portability" means the capability for a local exchange customer at a particular location to change providers of basic local exchange service without any change in the local exchange customer's telephone number, while preserving the full range of functionality that the customer could obtain by changing telephone numbers.

(2) A provider of basic local exchange service shall provide number portability. The commission shall, consistent with federal law, enforce number portability, number administration, number reclamation, and number assignment between regulated and unregulated providers.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

E. TERMINATION RATES

484.2359 Termination of local traffic; establishment of rate charge; agreement.

Sec. 359.

(1) Except as otherwise provided by federal law, a provider of basic local exchange service shall establish a rate charge for other providers of basic local exchange service for the termination of local traffic on its network as provided under section 352.

(2) This section does not prohibit providers of basic local exchange service from entering into an agreement to provide for the exchange of local traffic on other terms and conditions. Any compensation arrangements agreed to between providers under this subsection shall be available to other providers with the same terms and conditions on a nondiscriminatory basis.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

F. DIRECTORY ASSISTANCE

484.2360 Repealed. 2005, Act 235, Imd. Eff. Nov. 22, 2005.

Compiler's Notes: The repealed section pertained to directory assistance rate.

G. ATTACHMENT RATES

484.2361 "Attachment" and "usable space" defined; rates, terms, and conditions for attachments.

Sec. 361.

(1) As used in this section:

(a) "Attachment" means any wire, cable, facility, or other apparatus installed upon any pole or in any duct or conduit, owned or controlled, in whole or in part, by a provider.

(b) "Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable grade clearance and includes the space which separates telecommunication and power lines.

(2) A provider shall allow and establish the rates, terms, and conditions for attachments by another provider, cable service, or an educational institution establishing a telecommunication system under section 307.

(3) The rates, terms, and conditions shall be just and reasonable. A rate shall be just and reasonable if it assures the provider recovery of not less than the additional costs of providing the attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the attachment, by the sum of the operating expenses and actual capital costs of the provider attributable to the entire pole, duct, or right-of-way.

(4) An attaching provider or cable service shall obtain any necessary authorization before occupying public ways or private rights-of-way with its attachment.

(5) A public utility that directly provides a regulated telecommunication service or cable service shall establish the rates, terms, and conditions for attachments as provided under this section.

(6) This section shall not be construed to limit the commission's authority to regulate the rates, terms, and conditions of attachments upon poles or in ducts or conduits owned or controlled by utilities engaged in the transmission of electricity for light, heat, or power.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 1997, Act 183, Imd. Eff. Dec. 30, 1997

H. IMPUTATION

484.2362 Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed section pertained to rates subject to certain conditions and limitations.

I. CUSTOMER DATA BASE

484.2363 Access to data bases.

Sec. 363.

Providers of basic local exchange service shall allow access by other providers, on a nondiscriminatory basis and in a timely and accurate manner, to data bases, including, but not limited to, the line information data base (LIDB), the 800 data base, and other information necessary to complete a call within the exchange, either on terms and conditions as the providers may agree or as otherwise ordered by the commission.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995

Article 3B FEDERAL PROGRAMS

484.2375 Providers receiving federal universal service support for services provided to elementary and secondary schools; discounts.

Sec. 375.

All providers of telecommunications services within this state that receive federal universal service support for telecommunications services provided to eligible elementary and secondary schools, under the telecommunications act of 1996, Public Law 104-104, 110 Stat. 56, shall provide those intrastate services at discounts equal to the discounts applicable for eligible interstate services.

History: Add. 1997, Act 95, Imd. Eff. Aug. 7, 1997

484.2376 Providers receiving federal universal service support for services provided to libraries; discounts.

Sec. 376.

All providers of telecommunications services within this state that receive federal universal service support for telecommunications services provided to eligible libraries, under the telecommunications act of 1996, Public Law 104-104, 110 Stat. 56, shall provide those intrastate services at discounts equal to the discounts applicable for eligible interstate services.

History: Add. 1997, Act 96, Imd. Eff. Aug. 7, 1997

Article 4 UNREGULATED SERVICES

484.2401 Unregulated services generally.

Sec. 401.

(1) Except as otherwise provided by law or preempted by federal law, the commission does not have authority over enhanced services, paging, cellular, mobile, answering services, retail broadband service, video, cable service, pay-per-view, shared tenant, private networks, financial services networks, radio and television, WATS, personal communication networks, municipally owned telecommunication system, 800 prefix services, burglar and fire alarm services, energy management services, except for state institutions of higher education the reselling of centrex or its equivalent, payphone services, interconnected voice over internet protocol service, and the reselling of an unlicensed telecommunication service. The services listed in this subsection shall not be considered part of basic local exchange service.

(2) The commission has authority over the telecommunication services specifically provided for in this act.

(3) This section does not modify or affect either of the following:

(a) The authority of a provider or the commission to act pursuant to or enforce 47 USC 251, 47 USC 252, any lawful and applicable tariff, or any state law, regulation, or order related to wholesale rights and obligations, including the rights and obligations of local exchange carriers to interconnect and exchange voice traffic.

(b) The payment of switched access rates or other intercarrier compensation rates, as applicable.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2402 Unregulated services; tariff.

Sec. 402.

(1) A provider of an unregulated service may file with the commission a tariff which shall contain the information the provider determines to be appropriate regarding the offered service.

(2) The commission shall retain a tariff filed under this section and make all information contained in the tariff available to the public.

History: 1991, Act 179, Eff. Jan. 1, 1992

484.2403 Impairing speed of connection to telecommunication emergency service.

Sec. 403.

A provider of unregulated telecommunication services shall not at any time refuse, charge, delay, or impair the speed of the connecting of a person to a telecommunication emergency service.

History: 1991, Act 179, Eff. Jan. 1, 1992

Article 5 PROHIBITED ACTIVITY

484.2501 Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's Notes: The repealed section pertained to providing harmful service.

484.2502 Provider of basic local exchange service; prohibited conduct; assurance of discontinuance of method, act, or practice.

Sec. 502.

(1) A provider of a basic local exchange service shall not do any of the following:

(a) Make a statement or representation, including the omission of material information, regarding the rates, terms, or conditions of providing a service that is intentionally false, misleading, or deceptive. As used in this subdivision, "material information" includes, but is not limited to, a good faith estimate of all applicable fees, taxes, and charges that will be billed to the end-user, regardless of whether the fees, taxes, or charges are authorized by state or federal law.

(b) Charge an end-user for a subscribed service for which the end-user did not make an initial affirmative order. Failure to refuse an offered or proposed subscribed service is not an affirmative order for the service.

(c) If an end-user has canceled a service, charge the end-user for service provided after the effective date the service was canceled.

(d) Cause a probability of confusion or a misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction by making an intentionally false, deceptive, or misleading statement or by failing to inform the customer of a material fact, the omission of which is deceptive or misleading.

(e) Represent or imply that the subject of a transaction will be provided promptly, or at a specified time, or within a reasonable time, if the provider knows or has reason to know it will not be so provided.

(f) Require the purchase of a regulated service of the provider as a condition of purchasing an unregulated service.

(g) If a bona fide dispute exists between a customer and the provider, disconnect the service to the customer for nonpayment of that disputed amount.

(2) When the commission has authority to bring a proceeding for a violation of this section, the commission may accept an assurance of discontinuance of a method, act, or practice that is alleged to be unlawful under this section from the person who is alleged to have engaged, be engaging, or be about to engage in the method, act, or practice. The assurance of discontinuance is not an admission of guilt and shall not be introduced in any other proceeding. Unless rescinded by the parties or voided by the court for good cause, the parties to the assurance of discontinuance may enforce the assurance in circuit court. The assurance of discontinuance may include a stipulation for any of the following:

(a) The voluntary payment by the person for the cost of investigation.

(b) An amount to be held in escrow pending the outcome of an action.

(c) An amount for restitution to an aggrieved person.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011 ;-- Am. 2014, Act 52, Imd. Eff. Mar. 25, 2014

484.2503 Use of unpublished telephone number from telephone caller identification service.

Sec. 503.

A person who obtains an unpublished telephone number using a telephone caller identification service shall not do any of the following without the written consent of the customer of the unpublished telephone number:

- (a) Disclose the unpublished telephone number to another person for commercial gain.
- (b) Use the unpublished telephone number to solicit business.
- (c) Intentionally disclose the unpublished telephone number through a computer data base, on-line bulletin board, or other similar mechanism.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000 ;-- Am. 2011, Act 58, Imd. Eff. June 14, 2011

484.2504 Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed section pertained to filing small and minority owned telecommunication business participation plan.

484.2505 Switching to another telecommunications provider; authorization of end user required.

Sec. 505.

(1) An end user of a telecommunications provider shall not be switched to another provider without the authorization of the end user.

(2) The commission shall issue orders to ensure that an end user of a telecommunications provider is not switched to another provider without the end user's oral authorization, written confirmation, confirmation through an independent third party, or other verification procedures subject to commission approval, confirming the end user's intent to make a switch and that the end user has approved the specific details of the switch. The order issued under this section shall require that all providers comply with the regulations established by the federal communications commission on verification procedures for the switching of an end user's telecommunications provider.

History: Add. 1998, Act 260, Eff. Oct. 1, 1998 ;-- Am. 2005, Act 235, Imd. Eff. Nov. 22, 2005

Popular Name: Slamming

484.2506 Violation of MCL 484.2505 or MCL 484.2507; contested case; hearings; remedies and penalties; exception; finding of frivolous complaint or defense.

Sec. 506.

(1) Upon the receipt of a complaint filed by a person alleging a violation of section 505 or 507, an end-user who has been switched to another provider or had services added in violation of section 505 or 507, or a provider who has been removed as an end-user's provider without the end-user's authorization, or upon the commission's own motion, the commission may conduct a contested case as provided under section 203. The commission shall create, and shall supply upon request, a form affidavit designed to enable an end-user to provide all information necessary to promote efficient resolution of complaints alleging a violation of section 505 or 507. Hearings conducted under this section shall comply with the following requirements:

(a) Hearings shall be conducted in a manner as to optimize expediency, convenience, and the ability of end-users to bring and prosecute, without the assistance of counsel, complaints alleging violations of section 505 or 507, while preserving the rights of the parties.

(b) If possible, the commission shall hold the hearing at a location near the end-user's residence or place of business.

(2) If the commission finds that a person has violated section 505 or 507 or an order issued under section 505 or 507, the commission shall order remedies and penalties to protect and make whole end-users and other persons who have suffered damages as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Order the person to pay a fine for the first offense of not less than \$20,000.00 or more than \$30,000.00. For a second and any subsequent offense, the commission shall order the person to pay a fine of not less than \$30,000.00 or more than \$50,000.00. If the commission finds that the second or any of the subsequent offenses were knowingly made in violation of section 505 or 507, the commission shall order the person to pay a fine of not more than \$70,000.00. Each switch made in violation of section 505 or service added in violation of 507 shall be a separate offense under this subdivision.

(b) Order an unauthorized provider to refund to the end-user any amount greater than the end-user would have paid to an authorized provider.

(c) Order a portion between 10% to 50% of the fine assessed under subdivision (a) be paid directly to the customer who suffered the violation of section 505 or 507.

(d) Order an unauthorized provider to reimburse an authorized provider an amount equal to the amount paid by the end-user that should have been paid to the authorized provider.

(e) If the person is licensed under this act, revoke the license if the commission finds a pattern of violations of section 505 or 507.

(f) Issue cease and desist orders.

(3) Notwithstanding subsection (2), a fine shall not be imposed for a violation of section 505 or 507 if the provider has otherwise fully complied with sections 505 and 507 and shows that the violation was an unintentional and bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error. Examples of a bona fide error include clerical, calculation, computer malfunction, programming, or printing errors. An error in legal judgment with respect to a person's obligations under section 505 is not a bona fide error. The burden of proving that a violation was an unintentional and bona fide error is on the provider.

(4) If the commission finds that a party's complaint or defense filed under this section is frivolous, the commission shall award to the prevailing party costs, including reasonable attorney fees, against the nonprevailing party and their attorney.

History: Add. 1998, Act 259, Eff. Oct. 1, 1998 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000

484.2507 Optional services; authorization of end-user.

Sec. 507.

(1) A telecommunications provider shall not include or add optional services in an end-user's telecommunications service package without the express oral or written authorization of the end-user.

(2) Upon the receipt of a complaint filed by a person alleging a violation of this section or upon the commission's own motion, the commission may conduct a contested case as provided under section 203.

History: Add. 2000, Act 295, Imd. Eff. July 17, 2000

Article 6 PENALTIES, REPEALS, AND EFFECTIVE DATES

484.2601 Remedies and penalties.

Sec. 601.

If after notice and hearing the commission finds a person has violated this act, the commission shall order remedies and penalties to protect and make whole ratepayers and other persons who have suffered an economic loss as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Except as provided in subdivision (b), the person to pay a fine for the first offense of not less than \$1,000.00 nor more than \$20,000.00 per day that the person is in violation of this act, and for each subsequent offense, a fine

of not less than \$2,000.00 nor more than \$40,000.00 per day.

(b) If the provider has less than 250,000 access lines, the provider to pay a fine for the first offense of not less than \$200.00 or more than \$500.00 per day that the provider is in violation of this act, and for each subsequent offense a fine of not less than \$500.00 or more than \$1,000.00 per day.

(c) A refund to the ratepayers of the provider of any collected excessive rates.

(d) If the person is a licensee under this act, that the person's license is revoked.

(e) Cease and desist orders.

(f) Except for an arbitration case under section 252 of part II of title II of the communications act of 1934, chapter 622, 110 Stat. 66, attorney fees and actual costs of a person or a provider of less than 250,000 end-users.

History: 1991, Act 179, Eff. Jan. 1, 1992 ;-- Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995 ;-- Am. 2000, Act 295, Imd. Eff. July 17, 2000

484.2602 Repealed. 2011, Act 58, Imd. Eff. June 14, 2011.

Compiler's Notes: The repealed section pertained to passing attorney costs to customers.

484.2603 Repeal of acts and parts of acts.

Sec. 603.

The following acts and parts of acts are repealed:

Year of Act	Public Act Number	Section Numbers	Compiled Law Sections (1979)
1883	72		484.51
1913	206	1 to 3f	484.101 to 484.103f
		4 to 11a	484.104 to 484.111a
		12 to 14	484.112 to 484.114
		19 to 24	484.119 to 484.124
		26	484.126
1913	383		469.491 to 469.493

History: 1991, Act 179, Eff. Jan. 1, 1992

484.2604 Repealed. 2008, Act 52, Imd. Eff. Mar. 28, 2008.

Compiler's Notes: The repealed section pertained to repeal of act effective December 31, 2009.

484.2605 Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's Notes: The repealed section pertained to effective date of the act.

Article 7
TELECOMMUNICATION SERVICE DUTIES

484.2701 Repealed. 2005, Act 235, Imd. Eff. Nov. 22, 2005.

Compiler's Notes: The repealed section pertained to rates charged for telecommunication service provided to end-user.

METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT ACT

Act 48 of 2002

AN ACT to create a telecommunication rights-of-way oversight authority; to provide for fees; to prescribe the powers and duties of municipalities and certain state agencies and officials; to provide for penalties; and to repeal acts and parts of acts.

History: 2002, Act 48, Eff. Nov. 1, 2002

The People of the State of Michigan enact:

484.3101 Short title; purpose of act.

Sec. 1.

(1) This act shall be known and may be cited as the "metropolitan extension telecommunications rights-of-way oversight act".

(2) The purpose of this act is to do all of the following:

(a) Encourage competition in the availability, prices, terms, and other conditions of providing telecommunication services.

(b) Encourage the introduction of new services, the entry of new providers, the development of new technologies, and increase investment in the telecommunication infrastructure in this state.

(c) Improve the opportunities for economic development and the delivery of telecommunication services.

(d) Streamline the process for authorizing access to and use of public rights-of-way by telecommunication providers.

(e) Ensure the reasonable control and management of public rights-of-way by municipalities within this state.

(f) Provide for a common public rights-of-way maintenance fee applicable to telecommunication providers.

(g) Ensure effective review and disposition of disputes under this act.

(h) Allow for a tax credit as the sole means by which providers can recover the costs under this act and to insure that the providers do not pass these costs on to the end-users of this state through rates and charges for telecommunication services.

(i) Promote the public health, safety, welfare, convenience, and prosperity of this state.

(j) Create an authority to coordinate public right-of-way matters with municipalities.

History: 2002, Act 48, Eff. Nov. 1, 2002

Compiler's Notes: For transfer of powers and duties of the director of the metropolitan extension telecommunication rights-of-way oversight authority to the director of the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3102 Definitions.

Sec. 2.

As used in this act:

- (a) "Authority" means the metropolitan authority created under the local community stabilization authority act.
- (b) "Broadband internet access transport services" means the broadband transmission of data between an end-user and the end-user's internet service provider's point of interconnection at a speed of 200 or more kilobits per second to the end-user's premises.
- (c) "Commission" means the Michigan public service commission in the department of licensing and regulatory affairs.
- (d) "Exchange" means that term as defined under section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.
- (e) "Incumbent local exchange carrier" means that term as defined under section 251(h) of title II of the communications act of 1934, chapter 652, 110 Stat. 61, 47 USC 251.
- (f) "Metropolitan area" means 1 or more municipalities within this state located, in whole or in part, within a county having a population of 10,000 or more or a municipality within this state that enacts an ordinance or resolution electing to be classified as part of a metropolitan area under this act.
- (g) "Municipality" means a township, city, or village.
- (h) "Person" means an individual, corporation, partnership, limited partnership, association, limited liability company, governmental entity, or any other legal entity.
- (i) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, alley, easement, or waterway. Public right-of-way does not include a federal, state, or private right-of-way.
- (j) "Telecommunication facilities" or "facilities" means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, 2-way communications device.
- (k) "Telecommunication provider", "provider", and "telecommunication services" mean those terms as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, 2-way communication device. For the purposes of this act only, a provider also includes all of the following:
 - (i) A cable television operator that provides a telecommunication service.
 - (ii) Except as otherwise provided by this act, a person who owns telecommunication facilities located within a public right-of-way.
 - (iii) A person providing broadband internet transport access service.
 - (iv) An internet service provider that provides a telecommunication service.

History: 2002, Act 48, Eff. Nov. 1, 2002 ;-- Am. 2014, Act 88, Eff. Oct. 1, 2014

Compiler's Notes: Enacting section 2 of Act 88 of 2014 provides: "Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Request no. 03611'13 of the 97th Legislature, referred to in enacting section 2 of Act 88 of 2014, was filed with the Secretary of State on March 28, 2014, and became 2014 PA 80, Eff. Jan. 1, 2015.

Compiler's Notes: Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

Compiler's Notes: The conditions in enacting section 1 of Act 404 of 2012 were not met. Act 404 of 2012 did not go into effect.

484.3103 Local community stabilization authority; powers, duties, functions, and responsibilities; annual report; rules; transfer of certain powers, duties, records, and funds from metropolitan extension telecommunications rights-of-way oversight authority to the authority; abolishment; duties of director of department of licensing and regulatory affairs and state budget director; suit, action, or other proceeding; effect of rules, regulations, orders, contracts, and agreements adopted before October 1, 2014.

Sec. 3.

- (1) The local community stabilization authority shall exercise the powers, duties, functions, and responsibilities

vested in the authority under this act and may contract with the department of licensing and regulatory affairs for 1 or more employees of the department to assist in exercising the powers, duties, functions, and responsibilities. The authority shall coordinate public right-of-way matters with municipalities, assess the fees required under this act, and have the exclusive power to assess fees on telecommunication providers owning telecommunication facilities in public rights-of-way within a municipality in a metropolitan area to recover the costs of using the rights-of-way by the provider.

(2) The authority shall file an annual report of its activities for the preceding year with the governor and the members of the legislative committees dealing with energy, technology, and telecommunications issues on or before March 1 of each year.

(3) The authority may promulgate rules for the implementation and administration of this act in a manner that complies with the requirements of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) On October 1, 2014, all of the following shall occur:

(a) The powers, duties, functions, and responsibilities vested in the metropolitan extension telecommunications rights-of-way oversight authority before October 1, 2014 are transferred to and vested in the authority.

(b) All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the metropolitan extension telecommunications rights-of-way oversight authority are transferred to the authority.

(c) The metropolitan extension telecommunications rights-of-way oversight authority is abolished.

(5) The director of the department of licensing and regulatory affairs shall provide executive direction and supervision for the implementation of the transfers to the authority under subsection (4).

(6) The director of the department of licensing and regulatory affairs shall coordinate with the executive director of the metropolitan extension telecommunications rights-of-way oversight authority to facilitate the transfers to the authority under subsection (4) and shall develop and issue a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations resolved by the metropolitan extension telecommunications rights-of-way oversight authority before the transfers under subsection (4).

(7) State departments, agencies, officers, and employees shall fully and actively cooperate with and assist the director of the department of licensing and regulatory affairs in the implementation of transfers under subsection (4).

(8) The state budget director shall determine and authorize an efficient process for handling financial transactions and records in this state's financial management system necessary to implement the transfers under subsection (4).

(9) Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by the transfers under subsection (4) shall not abate by reason of the taking effect of the transfers under subsection (4). Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by the transfers under subsection (4).

(10) All rules, regulations, orders, contracts, and agreements relating to the former metropolitan extension telecommunications rights-of-way oversight authority or the powers, duties, functions, and responsibilities transferred under subsection (4) lawfully adopted before October 1, 2014 shall continue in effect until revised, amended, repealed, or rescinded by the authority unless prohibited by law.

History: 2002, Act 48, Eff. Nov. 1, 2002 ;-- Am. 2014, Act 88, Eff. Oct. 1, 2014

Compiler's Notes: Enacting section 2 of Act 88 of 2014 provides: "Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Request no. 03611'13 of the 97th Legislature, referred to in enacting section 2 of Act 88 of 2014, was filed with the Secretary of State on March 28, 2014, and became 2014 PA 80, Eff. Jan. 1, 2014.

Compiler's Notes: Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.

Compiler's Notes: The conditions in enacting section 1 of Act 404 of 2012 were not met. Act 404 of 2012 did not go into effect.

484.3104 Enactment of local laws; limitation; existing rights.

Sec. 4.

(1) Except as otherwise provided by this act, after the effective date of this act, a municipality in a metropolitan area shall not enact, maintain, or enforce an ordinance, local law, or other legal requirement applicable to telecommunication providers that is inconsistent with this act or that assesses fees or requires other consideration for access to or use of the public rights-of-way that are in addition to the fees required under this act.

(2) This act shall not affect any existing rights that a provider or municipality may have under a permit issued by a municipality or contract between the municipality and the provider related to the use of the public rights-of-way.

(3) Obtaining a permit or paying the fees required under this act does not give a provider a right to use conduit or utility poles.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3105 Use of public rights-of-way; providers subject to permit and fee requirements; facilities located in public right-of-way at effective date of act; permit application.

Sec. 5.

(1) A provider using or seeking to use public rights-of-way in a metropolitan area for its telecommunication facilities shall obtain a permit under section 15 from the municipality and pay all fees required under this act. Authorizations or permits previously obtained from a municipality under section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, satisfy the permit requirement of this section.

(2) A provider asserting rights under 1883 PA 129, MCL 484.1 to 484.10, is subject to the permit and fee requirements of this act.

(3) Within 180 days from the effective date of this act, a provider with facilities located in a public right-of-way as of the effective date of this act that has not previously obtained authorization or a permit under section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, shall submit an application for a permit to each municipality in which the provider has facilities located in a public right-of-way. A provider submitting an application under this subsection is not required to pay the administrative fee required under section 6(4).

(4) The authority may, for good cause, allow a provider up to an additional 180 days to submit the application required under subsection (3).

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3106 Applications and permits issued after effective date of act; form and process; disagreement on terms; appointment of mediator; determination by commissioner; extension; request for emergency relief; filing permit application with municipality; route maps; maintenance of website by commission.

Sec. 6.

(1) For applications and permits issued after the effective date of this act, the commission shall prescribe the form and application process to be used in applying to a municipality for a permit under section 15 and the provisions of a permit issued under section 15. The initial application forms and, unless otherwise agreed to by the parties, permit provisions shall be those approved by the commission as of August 16, 2001.

(2) If the parties cannot agree on the requirement of additional information requested by the municipality or the use of additional or different permit terms, either the municipality or the provider shall notify the commission, which shall appoint a mediator within 7 days from the date of the notice to make recommendations within 30 days from the date of the appointment for a resolution of the dispute. The commission may order that the permit be temporarily granted pending resolution of the dispute. If any of the parties are unwilling to comply with the mediator's recommendations, any party to the dispute may within 30 days of receipt of the recommendation request the commission for a review and determination of a resolution of the dispute. Except as provided in subsection (3), the determination by the commission under this subsection shall be issued within 60 days from the date of the request to the commission. The interested parties to the dispute may agree to an extension for up to 30 days of the 60-day requirement under this subsection.

(3) A request for emergency relief under section 18(1) shall have the same time requirements and procedures as under section 203 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2203.

(4) Except as otherwise provided by this act, a provider shall file an application for a permit and pay a 1-time \$500.00 application fee to each municipality whose boundaries include public rights-of-way for which access or use is sought by the provider.

(5) An application for a permit under this section shall include route maps showing the location of the provider's

existing and proposed facilities in the format as required by the authority under subsection (8). Except as otherwise provided by a mandatory protective order issued by the commission, information included in the route maps of a provider's existing and proposed facilities that is a trade secret, proprietary, or confidential information is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) A municipality shall notify the commission when it grants or denies a permit, including information regarding the date on which the application was filed and the date on which the permit was granted or denied. The commission shall maintain on its website a listing showing the length of time required by each municipality to grant an application during the immediately preceding 3 years.

(7) Within 90 days after the substantial completion of construction of new facilities in a municipality, a provider shall submit route maps showing the location of the telecommunication facilities to both the commission and the affected municipalities.

(8) The commission shall, after input from providers and municipalities, require that the route maps required under this section be in a paper or electronic format as the commission may prescribe.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3107 Inability of provider and municipality to agree; appointment of mediator by commission; determination by commission; issuance; extension.

Sec. 7.

If a provider and 1 or more municipalities are unable to agree on arrangements for coordinating and minimizing the disruption of public rights-of-way, ensuring the efficient construction of facilities, restoring the public rights-of-way after construction or other activities by a provider, protecting the public health, safety, and welfare, and resolving disputes arising under this act, the commission shall appoint a mediator within 7 days from the date of the notice to make recommendations within 30 days from the date of the appointment for a resolution of the dispute. If any of the parties are unwilling to comply with the mediator's recommendations, any party to the dispute may within 30 days of receipt of the recommendation request the commission for a review and determination of a resolution of the dispute. The determination by the commission under this section shall be issued within 60 days from the date of the request to the commission. The commission shall issue its determination within 15 days from the date of the request if a municipality demonstrates that the public health, safety, and welfare require a determination before the expiration of the 60 days. The interested parties to the dispute may agree to an extension for up to 30 days of the 60-day requirement under this section.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3108 Maintenance fee.

Sec. 8.

(1) Except as otherwise provided by this act, a provider shall pay to the authority an annual maintenance fee as required under this act.

(2) The authority shall determine for each provider the amount of fees required under this section. April 1 to March 31 shall be the annual period covered by each assessment and April 29 the date due for payment. The authority shall prescribe the schedule for the allocation and disbursement of the fees under this act. The authority shall disburse the annual maintenance fee to each municipality as provided under sections 10, 11, and 12 on or before the last day of the month following the month of receipt of the fees by the authority. The authority may authorize the department of treasury to collect and make the allocations and disbursements of fees required under this act. Any interest accrued on the revenue collected under this act shall be used only as provided by this act.

(3) Except as otherwise provided under subsection (6), for the period of November 1, 2002 to March 31, 2003, a provider shall pay an initial annual maintenance fee to the authority on April 29, 2003 of 2 cents per each linear foot of public right-of-way occupied by the provider's facilities within a metropolitan area, prorated for the period specified in this subsection.

(4) Except as otherwise provided under subsection (6), for each year after the initial period provided for under

subsection (3), a provider shall pay the authority an annual maintenance fee of 5 cents per each linear foot of public right-of-way occupied by the provider's facilities within a metropolitan area.

(5) The fee required under this section is based on the linear feet occupied by the provider regardless of the quantity or type of the provider's facilities utilizing the public right-of-way or whether the facilities are leased to another provider.

(6) In recognition of the need to provide nondiscriminatory compensation to municipalities for management of their rights-of-way, the fees required under this section shall be the lesser of the amounts prescribed under subsections (3) and (4) or 1 of the following:

(a) For a provider that was an incumbent local exchange carrier in this state on January 1, 2002, the fees within the exchange in which that provider was providing basic local exchange service on January 1, 2002, when restated by the authority on a per access line per year basis, shall not exceed the statewide per access line per year fee of the provider with the highest number of access lines in this state. The authority shall annually determine the statewide per access line per year fee by dividing the amount of the total annual fees the provider is required to pay under subsections (3) and (4) by the provider's total number of access lines in this state.

(b) For all other providers in an exchange, the fee per linear foot for the provider's facilities located in the public rights-of-way in that exchange shall be the same as that of the incumbent local exchange carrier.

(7) If the provider with the highest number of access lines in this state is unable to provide the exact number of linear feet for a determination under subsection (6), the provider shall no later than February 1, 2003 make a good faith estimate, in consultation with the staff of the authority, of the number of linear feet of rights-of-way in which facilities owned by the provider are located in a metropolitan area and pay an annual maintenance fee to the authority based upon the estimate.

(8) If an estimate of the linear feet is made under subsection (7), the statewide per access line per year cost shall be determined by the authority based on that provider's good faith estimate. Upon the true up of the estimated linear feet under subsection (9), the authority shall adjust the fees of all providers affected by subsection (6).

(9) Within 360 days of the effective date of this act, a provider making an estimate under subsection (8) shall true up the estimated amount of linear feet of the provider's facilities in rights-of-way in a metropolitan area to the actual amount of linear feet of rights-of-way in a metropolitan area owned by the provider. If the actual amount of linear feet of rights-of-way in which facilities owned by the provider are located exceeds the estimated amount, the provider shall pay the authority the difference within 30 days of the true up. If the actual amount of linear feet of rights-of-way in which facilities owned by the provider are located is less than the estimated amount, the provider shall receive a corresponding credit from the authority against the annual maintenance fee due for payment in the succeeding year.

(10) The authority may prescribe the forms, standards, methodology, and procedures for assessing fees under this act. Each provider and municipality shall provide reasonably requested information regarding public rights-of-way that is required to assist the authority in computing and issuing the assessments under this section.

(11) Notwithstanding any other provision of this act, a provider possessing a franchise or operating with the consent of a municipality to provide and that is providing cable services within a metropolitan area is subject to an annual maintenance fee of 1 cent per linear foot of public right-of-way occupied by the provider's facilities within the metropolitan area. An affiliate of such a provider shall not pay any additional fees to occupy or use the same facilities in public rights-of-way as initially constructed for and used by a cable provider. The fee required under this subsection is in lieu of any other maintenance fee or other fee except for fees paid by the provider under a cable franchise or consent agreement. A cable franchise or consent agreement from a municipality that allows the municipality to seek right-of-way related information comparable to that required by a permit under this act and that provides insurance for right-of-way related activities shall satisfy any requirement for the holder of the cable franchise or consent agreement or its affiliates to obtain a permit to provide information services or telecommunications services in the municipality.

(12) The cable provider may satisfy the fee requirement under subsection (11) by certifying to the authority that the provider's aggregate investment in this state, since January 1, 1996, in facilities capable of providing broadband internet transport access service exceeds the aggregate amount of the maintenance fees assessed under subsection (11).

(13) The fees collected under this act shall be used only as provided by this act and shall be subject to an audit by the state auditor general.

(14) A provider may apply to the commission for a determination of the maximum amount of credit available under section 13b(5) of 1905 PA 282, MCL 207.13b. Each application shall include sufficient documentation to permit the commission to accurately determine the allowable credit. Except as otherwise provided under subsection (15), the commission shall issue its determination within 45 days from the date of the application. Upon certification by the commission of the documentation provided in subdivisions (a) and (b), a provider shall qualify for a credit equal to the costs paid under this act, less the amount of any credit determined under section 13b(1) of 1905 PA 282, MCL 207.13b, and shall not be subject to subsection (16) if the provider files the following documentation under this subsection:

(a) Verification of the costs paid by the provider under this act.

(b) Verification that the provider's rates and charges for basic local exchange service, including revenues from intrastate subscriber line or end-user line charges, do not exceed the commission's approved rates and charges for those services.

(15) If the commission finds that it cannot make a determination based on the documentation required under subsection (14), it may require the provider to file its application under section 203 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2203.

(16) The maximum credit allowed under subsection (14) or (15) shall be the lesser of the following:

(a) The costs paid under this act, less the amount of any credit determined under section 13b(1) of 1905 PA 282, MCL 207.13b.

(b) The amount that the costs paid under this act, together with the provider's total service long run incremental cost of basic local exchange service, exceeds the provider's rates for basic local exchange service plus any additional charges of the provider used to recover its total service long run incremental cost for basic local exchange service. "Total service long run incremental cost" means that term as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

(17) The tax credit allowed under subsections (14) and (15) shall be the sole method of recovery for the costs required under this act. A provider shall not recover the costs required under this act through rates and charges to the end-users for telecommunication services.

(18) An educational institution is not required to pay the fees and charges or fulfill the mapping requirements required under this act for facilities that are constructed and used as provided under applicable provisions of section 307 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2307. To the extent that an educational institution provides services beyond that allowed by section 307 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2307, the educational institution shall obtain a permit, pay the fees and charges, and fulfill the mapping requirement required under this act for each linear foot of public right-of-way used in providing telecommunication services to residential or commercial customers. An educational institution shall notify the commission if it provides telecommunication services beyond that allowed by section 307 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2307, to a residential or commercial customer for compensation.

(19) An electric or gas utility, or an affiliate of a utility, or an electric transmission provider is not required to obtain a permit, pay the fees and charges, or fulfill the mapping requirements required under this act for facilities located in the public rights-of-way that are used solely for electric or gas utility services including internal utility communications and customer services such as billing or load management. The electric or gas utility, or an affiliate of a utility, or an electric transmission provider shall only obtain a permit, pay the fees and charges, and fulfill the mapping requirements required under this act for each linear foot of public right-of-way containing facilities leased or otherwise provided to an unaffiliated telecommunication provider or used in providing telecommunication services to a person other than the utility, or its affiliate, for compensation. An electric or gas utility, or an affiliate of a utility, or an electric transmission provider shall notify the commission if the electric or gas utility, or an affiliate of a utility, or an electric transmission provider provides or leases telecommunication services to a person other than the utility or its affiliate for compensation. For the purposes of this subsection, electric and gas utility services include billing and metering services performed for an alternative electric supplier, an alternative gas supplier, electric utility, electric transmission provider, natural gas utility, or a water utility.

(20) A state, county, municipality, municipally owned utility, or an affiliate is not required to obtain a permit, pay the fees and charges, or fulfill the mapping requirements required under this act for facilities located in the public rights-of-way that are used solely for state, county, municipality, or governmental entity, or utility services including internal state, county, municipality, governmental entity, or utility communications and customer services such as billing or load management. The state, county, municipality, municipally owned utility, or an affiliate shall only obtain a permit, pay the fees and charges, and fulfill the mapping requirements required under this act for each linear foot of public right-of-way containing facilities leased or otherwise provided to an unaffiliated telecommunication provider or used in providing telecommunication services to a person other than the state, county, another governmental entity, municipality, municipally owned utility, or its affiliate for compensation. A state, county, municipality, municipally owned utility, or an affiliate shall notify the commission if the state, county, municipality, municipally owned utility, or an affiliate provides or leases telecommunication services to a person other than the state, county, another governmental entity, municipality, municipally owned utility, or its affiliate for compensation. For the purposes of this subsection, utility services include billing and metering services performed for an alternative electric supplier, an alternative gas supplier, electric utility, electric transmission provider, natural gas utility, or a water utility.

(21) The authority may grant to a provider a waiver of the fee requirement of this section for telecommunication facilities located in underserved areas as identified by the authority if 2/3 of the affected municipalities approve the granting of a waiver. If a waiver is granted under this subsection, the amount of the waived fees shall be deducted from the fee revenue the affected municipalities would otherwise be entitled under sections 11 and 12. A waiver granted under this subsection shall not be for more than 10 years. As used in this subsection, "underserved area" means that term as defined under section 7 of the Michigan broadband development authority act.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3109 Fee discount.

Sec. 9.

(1) If 2 or more providers implement a shared use arrangement and meet the requirements of this section, each provider participating in the arrangement is entitled to a discount of the fees required under section 8 as provided under this section.

(2) To qualify for the shared use discount, each participating provider shall do all of the following:

(a) To the extent permitted by the safety provisions of the applicable electrical code, occupy and use the same poles, trenches, conduits, ducts, or other common spaces or physical facilities jointly with another provider.

(b) Coordinate the construction or installation of its own facilities with the construction schedules of another provider so that any pavement cuts, excavation, construction, or other activities undertaken to construct or install the facilities occur contemporaneously and do not impair the physical condition, or interrupt the normal uses, of the public rights-of-way on more than 1 occasion.

(c) Enter the shared use arrangement after the effective date of this act.

(3) This section does not apply to the utilization or attachment to poles, trenches, conduits, ducts, or other common facilities that were placed in the public rights-of-way before the effective date of this act.

(4) Two or more providers that qualify for a shared use discount are entitled to a 40% discount of the fees imposed by section 8 for each linear foot of public right-of-way in which the shared use occurs.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3110 Fee-sharing payments.

Sec. 10.

(1) Except as reduced by the amount provided for under subsection (2), the authority shall allocate the annual maintenance fees collected under this act to fund the fee-sharing mechanism under section 11.

(2) To the extent that fees exceed \$30,000,000.00 in any year and are from fees for linear feet of rights-of-way in which telecommunication facilities are constructed by a provider after the effective date of this act, the authority shall allocate that amount to fund the fee-sharing mechanism under section 12.

(3) To be eligible to receive fee-sharing payments under this act, a municipality shall comply with this act. For the purpose of the distribution under sections 11 and 12, a municipality is considered to be in compliance with this act unless the authority finds to the contrary in a proceeding against the municipality affording due process initiated by a provider, the commission, or the attorney general. If a municipality is found not to be in compliance, fee-sharing payments shall be held by the authority in escrow until the municipality returns to compliance. A municipality is not ineligible to receive fee-sharing payments for any matter found to be a good faith dispute or matters of first impression under this act or other applicable law.

(4) The amount received under sections 11 and 12 shall be used by the municipality solely for rights-of-way related purposes. Rights-of-way purposes does not include constructing or utilizing telecommunication facilities to serve residential or commercial customers.

(5) A municipality receiving funds under sections 11 and 12 with a population of less than 10,000 may file and a municipality receiving funds under sections 11 and 12 with a population of 10,000 or more shall file an annual report with the authority on the use and disposition of the funds. The authority shall prescribe the form of the report to be filed under this subsection, which report shall be in a simplified format.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3111 Fee sharing; allocation of fund under section 10(1); excluded municipalities.

Sec. 11.

(1) The authority shall allocate the funding provided for fee sharing under section 10(1) as follows:

(a) 75% to be disbursed to cities and villages in a metropolitan area on the basis of the distribution to each city or village under section 13 of 1951 PA 51, MCL 247.663, for the most recent year as a proportion of the total distribution to all cities and villages located in metropolitan areas under section 13 of 1951 PA 51, MCL 247.663, for the most recent year.

(b) 25% to be disbursed to townships in a metropolitan area on the basis of each township's proportionate share of the total linear feet of public rights-of-way occupied by providers within all townships located in metropolitan areas.

(2) Except as otherwise provided under sections 13 and 14, municipalities that are ineligible under section 13 or 14 shall be excluded from the computation, allocation, and distribution of funding under this section.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3112 Fee sharing; allocation of fund under section 10(2); weighted linear feet; excluded municipalities.

Sec. 12.

(1) The authority shall allocate the funding provided for fee sharing under section 10(2) as follows:

(a) The amount available under this section multiplied by the percentage of weighted linear feet attributable to cities and villages, as compared to the total weighted linear feet attributable to cities, villages, and townships, shall be disbursed to cities and villages in a metropolitan area on the basis of the distribution to each city or village under section 13 of 1951 PA 51, MCL 247.663, for the most recent year as a proportion of the total distribution to all cities and villages located in metropolitan areas under section 13 of 1951 PA 51, MCL 247.663, for the most recent year.

(b) The amount available under this section multiplied by the percentage of weighted linear feet attributable to townships, as compared to the total weighted linear feet attributable to cities, villages, and townships, shall be disbursed to townships on the basis of each township's proportionate share of the total unweighted linear feet of public rights-of-way in or on which providers' facilities are located within all townships located in metropolitan areas.

(2) The following shall be used under this section in determining the weighted linear feet in which telecommunications facilities are first placed by any telecommunications provider after the effective date of this act:

(a) All underground linear feet shall receive a weight of 3.0.

(b) All linear feet in a city, village, or township with a population in excess of 5,000 and not covered under subdivision (a) shall receive a weight of 2.0.

(c) All other linear feet shall receive a weight of 1.0.

(3) Except as otherwise provided under sections 13 and 14, municipalities that are ineligible under section 13 or 14 shall be excluded from the computation, allocation, and distribution of funding under this section.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3113 Modification of fees by municipality.

Sec. 13.

(1) A municipality is not eligible to receive funds under sections 11 and 12 unless by December 31, 2007 the municipality has modified to the extent necessary any fees charged to providers after the effective date of this act relating to access to and usage of the public rights-of-way to an amount not exceeding the amounts of fees and charges required under this act.

(2) To the extent a telecommunications provider pays fees to a municipality that have not been modified as required by this section, both of the following apply:

(a) The provider may deduct the fees paid from the fee required to be paid under section 8 for those rights-of-way.

(b) The amounts received shall be deducted from the amounts the municipality is eligible to receive under sections 11 and 12.

(3) The authority may allow a municipality in violation of this section to become eligible to receive funds under sections 11 and 12 if the authority determines that the violation occurred despite good faith efforts and the municipality rebates to the authority any fees received in excess of those required under section 8, including any interest as determined by the authority.

(4) A municipality is considered to have modified the fees under subsection (1) if it has adopted a resolution or ordinance, effective no later than January 1, 2008, approving the modification so that providers with telecommunication facilities in public rights-of-way within the municipality's boundaries pay only those fees required under section 8. The municipality shall provide each provider affected by the fee a copy of the resolution or ordinance passed under this subsection.

(5) Except as otherwise provided by a municipality, if section 8 is found to be invalid or unconstitutional, a modification of fees under this section is void from the date the modification was made.

(6) To be eligible to receive fee-sharing payments under this act, a municipality shall not hold a cable television operator in default or seek any remedy for failure to satisfy an obligation, if any, to pay after the effective date of this act a franchise fee or other similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(7) If a municipality adopts a resolution as required under this section but adopts it after the distribution of funds under sections 11 and 12 for 2007, the municipality shall be eligible to receive funds for 2007 from funds available after the 2007 distribution date.

History: 2002, Act 48, Eff. Nov. 1, 2002 ;-- Am. 2008, Act 130, Imd. Eff. May 9, 2008

484.3114 Telecommunication or cable modem service through broadband internet access transport service; requirements; exceptions; violation; complaint.

Sec. 14.

(1) Except as otherwise provided by subsection (2), a county, municipality, or an affiliate, shall comply with all of the following requirements:

(a) Before the passage of any ordinance or resolution authorizing a county or municipality to either construct telecommunication facilities or provide a telecommunication or cable modem service provided through a broadband internet access transport service, a county or municipality shall conduct at least 1 public hearing. A notice of the public hearing shall be provided as required by law.

(b) Not less than 30 days before the hearing required under subdivision (a), the county or municipality shall prepare reasonable projections of at least a 3-year cost-benefit analysis. This analysis shall identify and disclose the total projected direct costs of and the revenues to be derived from constructing the telecommunication facilities and providing the telecommunication or cable modem service through a broadband internet access transport service. The costs shall be determined by using accounting standards developed under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(c) A county or municipality shall prepare and maintain accounting records in accordance with accounting standards developed under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a. The accounting records required under this subdivision are subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(d) Charges for telecommunication service and cable modem services provided through a broadband internet access transport service shall include all of the following:

- (i) All capital costs attributable to the provision of the service.
- (ii) All costs attributable to the provision of the service that would be eliminated if the service was discontinued.
- (iii) The proportionate share of costs identified with the provision of 2 or more county or municipal services including telecommunication services.

(e) A county or municipality that provides a telecommunication service or cable modem service provided through a broadband internet access transport service shall not adopt an ordinance or a policy that unduly discriminates against another person providing the same service. Subject to other requirements of this section, this subsection shall not be construed as precluding a county or municipality from establishing rates different from those of another person providing the same service.

(f) In providing a telecommunication or cable modem service provided through a broadband internet access transport service, a municipality shall not employ terms more favorable or less burdensome than those imposed by the municipality upon other providers of the same service within its jurisdiction concerning access to public rights-of-ways.

(g) A municipality shall not impose or enforce against a provider any local regulation with respect to public rights-of-way that is not also applicable to the municipality in its provision of a telecommunication or cable modem service provided through a broadband internet access transport service.

(h) In providing a telecommunication or a cable modem service provided through a broadband internet access transport service, a municipality shall not employ terms more favorable or less burdensome than those imposed by the municipality upon other providers of the same service within its jurisdiction concerning access to and rates for pole attachments.

(2) Subsection (1) does not apply to either of the following:

(a) Telecommunication facilities constructed and operated by a county, municipality, or an affiliate, to provide telecommunication service or a cable modem service provided through a broadband internet access transport service that is not provided to any residential or commercial premises.

(b) Telecommunication facilities that are owned or operated by a county, municipality, or an affiliate for compensation, and that are located within the territory served by the county, municipality or its affiliate that provided a telecommunications service or a cable modem service provided through broadband internet access transport service before December 31, 2001 or that allowed any third party to use the county's or municipality's telecommunication facilities for compensation before December 31, 2001, to provide such a service.

(3) If a complaint is filed under section 18 alleging a violation of this section, the commission shall allow a county or municipality to take reasonable steps to correct a violation found by the commission before the commission imposes any penalties.

(4) The commission, in reviewing a complaint under subsection (3), shall consider, in determining whether charges imposed by a county or municipality are in compliance with subsection (1), the applicable federal, state, county, and local taxes and fees paid by the complainant or providers serving that county or municipality.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3115 Provider access to and use of public rights-of-way.

Sec. 15.

(1) Except as otherwise provided in this section, a municipality shall, upon application, grant to providers a permit for access to and the ongoing use of all public rights-of-way located within its municipal boundaries. A municipality shall act reasonably and promptly on all applications filed for a permit involving an easement or public place.

(2) This section shall not limit a municipality's right to review and approve a provider's access to and ongoing use of a public right-of-way or limit the municipality's authority to ensure and protect the health, safety, and welfare of the public.

(3) A municipality shall approve or deny access under this section within 45 days from the date a provider files an application for a permit for access to a public right-of-way. A provider's right to access and use of a public right-of-way shall not be unreasonably denied by a municipality. A municipality may require as a condition of the permit that a bond be posted by the provider, which shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the provider's access and use.

(4) Any conditions of a permit granted under this section shall be limited to the provider's access and usage of any public right-of-way.

(5) A provider undertaking an excavation or constructing or installing facilities within a public right-of-way or temporarily obstructing a public right-of-way, as authorized by the permit, shall promptly repair all damage done to the street surface and all installations on, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition. The authority shall also have the jurisdiction to require the repair and restoration of any right-of-way, including state right-of-way, which has not been repaired or restored after installation.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3116 Cable franchise.

Sec. 16.

This act does not affect the requirement of a cable operator to obtain a cable franchise from a municipality.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3117 Review of decision or review.

Sec. 17.

A decision or assessment of the authority is subject to a de novo review by the commission upon the request of an interested person. A decision or order of the commission issued under this act is subject to review as provided under section 26 of 1909 PA 300, MCL 462.26.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3118 Complaint; proceeding; remedies and penalties.

Sec. 18.

(1) Except as otherwise provided by this act, the time requirements and procedures governing a complaint proceeding under this act shall be the same as those under section 203 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2203.

(2) If after notice and hearing the commission finds that a person has violated this act, the commission shall order remedies and penalties to protect and make whole persons who have suffered an economic loss as a result of the violation, including, but not limited to, 1 or more of the following:

(a) For failure to pay an undisputed fee assessed by the authority under this act, order the provider to pay a fine of not more than 1% of the amount of the unpaid assessment for each day that the assessment remains unpaid. For each subsequent offense under this subdivision, a fine of not more than 2% for each day the assessment remains unpaid.

(b) For a violation under section 14, order the suspension or termination of all or a portion of the fee-sharing payments to the municipality provided for under section 11 or 12.

(c) Order the person who violated this act to pay a fine of not less than \$200.00 or more than \$20,000.00 per day that the person is in violation. For each subsequent offense, a fine of not less than \$500.00 or more than \$40,000.00 per day that the person is in violation of this act.

(d) If the person is a provider, order that the provider's permit allowing access to and use of a municipality's public right-of-way be conditioned or amended.

(e) Issue cease and desist orders.

(f) Order the person who violates this act to pay attorney fees and actual costs of a person that is not a provider of telecommunication services to 250,000 or more end-users.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3119 Provisions found invalid or unconstitutional; effect.

Sec. 19.

(1) If the application of any provision of section 8 to a certain person is found to be invalid or unconstitutional, that provision and sections 3 and 15 shall not apply to any person.

(2) If section 15 does not apply under subsection (1), the permit process for access to and use of public rights-of-way shall be as follows:

(a) Except as provided in subdivisions (b) and (c), a local unit of government shall grant a permit for access to and the ongoing use of all rights-of-way, easements, and public places under its control and jurisdiction to providers of telecommunication services.

(b) This section shall not limit a local unit of government's right to review and approve a provider's access to and ongoing use of a right-of-way, easement, or public place or limit the unit's authority to ensure and protect the health, safety, and welfare of the public.

(c) A local unit of government shall approve or deny access under this section within 90 days from the date a provider files an application for a permit for access to a right-of-way, easement, or public place. A provider's right to access and use of a right-of-way, easement, or public place shall not be unreasonably denied by a local unit of government. A local unit of government may require as a condition of the permit that a bond be posted by the provider, which shall not exceed the reasonable cost, to ensure that the right-of-way, easement, or public place is returned to its original condition during and after the provider's access and use.

(d) Any conditions of a permit granted under this subsection shall be limited to the provider's access and usage of any right-of-way, easement, or public place.

(e) Any fees or assessments made under this subsection shall be on a nondiscriminatory basis and shall not exceed the fixed and variable costs to the local unit of government in granting a permit and maintaining the rights-of-way, easements, or public places used by a provider.

(f) A provider using the highways, streets, alleys, or other public places shall obtain a permit as required under this subsection.

(3) If section 15 does not apply under subsection (1), it is the intent of the legislature in enacting subsection (2) to return to the status quo prior to the effective date of this act for the granting of permits for access to and the use of all rights-of-way. Subsection (2) shall have the same construction and interpretation as sections 251 to 254 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251 to 484.2254, had prior to the repeal of these sections by this act.

(4) Except as provided under subsection (1), if any other provision or the application of any provision of this act to a certain person is found to be invalid or unconstitutional, the remaining provisions or application of a provision to other persons shall not be affected and will remain in full force and effect.

History: 2002, Act 48, Eff. Nov. 1, 2002

484.3120 Supreme court opinion; request by legislature or governor.

Sec. 20.

Pursuant to section 8 of article III of the state constitution of 1963, either house of the legislature or the governor may request the opinion of the supreme court on important questions of law as to the constitutionality of this act.

History: 2002, Act 48, Eff. Nov. 1, 2002

MICHIGAN BROADBAND DEVELOPMENT AUTHORITY ACT

Act 49 of 2002

AN ACT to create the Michigan broadband development authority; to create funds and accounts; to authorize the issuing of bonds and notes; to prescribe the powers and duties of the authority; and to provide incentives for the development of broadband services.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

The People of the State of Michigan enact:

484.3201 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan broadband development authority act".

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of Michigan broadband development authority and its board of directors, with the exception of powers and duties under MCL 484.3207(1)(d), to the Michigan state housing development authority, and for transfer of powers and duties under MCL 484.3207(1)(d) to Michigan public service commission, see E.R.O. No. 2008-4, compiled at MCL 445.2025.

484.3202 Legislative findings.

Sec. 2.

The legislature finds that certain areas of this state are not being adequately served with broadband services and that, for the benefit of the people of this state and the improvement of their health, welfare, and living conditions, the improvement of the economic and educational welfare of this state, and the improvement of its public safety and security, it is essential that broadband infrastructure be expanded to provide broadband services throughout this state and that the private sector should be encouraged to invest in the deployment of broadband services and networks and that financing by this authority will encourage broadband investment. This act shall provide a method to assure that economic, technological, and logistical integrated broadband services are provided throughout this state on a nondiscriminatory basis. The provision of affordable broadband services and networks will assure the long-term growth of and the enhancement and delivery of services by the educational, medical, commercial, and governmental entities within this state, including, but not limited to, municipalities and counties, public safety facilities, judicial and criminal facilities, telemedical facilities, schools, colleges, universities, hospitals, libraries, community centers, businesses, nonprofit organizations, and residential properties. To increase the speed and availability at which affordable broadband services become available in this state, it is declared to be a valid public purpose to assist in the financing and refinancing of the private and public sectors' development of a statewide broadband infrastructure. It is further declared to be a valid public purpose for the authority created under this act to issue bonds and notes to provide for financing or refinancing to broadband developers and broadband operators, to make loans and provide joint venture and partnership arrangements subject to section 7(2) and (3) to broadband developers and broadband operators, to enter into contracts for the lease or management of all or portions of the broadband infrastructure, and to enter into joint venture and partnership arrangements and partnerships with persons that will acquire, construct, develop, create, maintain, own, and operate all or portions of the broadband infrastructure. The legislature finds that the authority created and powers conferred by this act constitute a necessary program and serve a necessary public purpose.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of Michigan broadband development authority and its board of directors, with the exception of powers and duties under MCL 484.3207(1)(d), to the Michigan state housing development authority, and for transfer of powers and duties under MCL 484.3207(1)(d) to Michigan public service commission, see E.R.O. No. 2008-4, compiled at MCL 445.2025.

484.3203 Definitions.

Sec. 3.

As used in this act:

- (a) "Authority" means the Michigan broadband development authority created under section 4.
- (b) "Board" means the board of directors of the authority.
- (c) "Capital reserve fund requirement" means the fund amount requirement that may be established in the resolution authorizing notes or bonds for which a capital reserve fund has been established under section 8. The required amount shall not exceed the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the notes or bonds secured in whole or in part by the fund.
- (d) "Broadband developer" means a person selected by the authority to acquire, construct, develop, and create any part of the broadband infrastructure.
- (e) "Broadband infrastructure" means all facilities, hardware, and software and other intellectual property necessary to provide broadband services in this state, including, but not limited to, voice, video, and data.
- (f) "Broadband operator" means a person selected by the authority to operate any part of the broadband infrastructure.
- (g) "Broadband services" means those services, including, but not limited to, voice, video, and data, that provide capacity for transmission in excess of 200 kilobits per second in at least 1 direction regardless of the technology or medium used, including, but not limited to, wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services utilizing transmission in excess of 200 kilobits per second, the voice transmission capacity may be less than 200 kilobits per second.
- (h) "Development costs" means the costs associated with the broadband infrastructure that have been approved by the authority and include, but are not limited to, all of the following:
 - (i) The costs for the planning, acquiring, leasing, constructing, maintaining, and operating of the broadband infrastructure.
 - (ii) Payments for options to purchase, deposits on contracts of purchase, and payments for the purchases of properties for the broadband infrastructure.
 - (iii) Financing, refinancing, acquisition, demolition, construction, rehabilitation, and site development of new and existing buildings.
 - (iv) Carrying charges during construction.
 - (v) Purchases of hardware, software, facilities, or other expenses related to the broadband infrastructure.
 - (vi) Legal, organizational, and marketing expenses, project manager and clerical staff salaries, office rent, and other incidental expenses.
 - (vii) Payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work.
 - (viii) Any other costs and expenses necessary for the acquisition, construction, maintenance, and operation of all or portions of the broadband infrastructure.
- (i) "Person" means an individual, corporation, limited or general partnership, joint venture, or limited liability company or a governmental entity, including state authorities, municipalities, counties, and townships, police, fire and other public safety organizations, judicial entities, medical entities, schools, colleges, universities, hospitals, libraries, community centers, and local economic development entities. Except to the extent that state authorities, police, fire, and other public safety organizations, judicial entities, medical entities, schools, colleges, universities, hospitals, and libraries may constitute state entities, person does not include this state.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of Michigan broadband development authority and its board of directors, with the exception of powers and duties under MCL 484.3207(1)(d), to the Michigan state housing development authority, and for transfer of powers and duties under MCL 484.3207(1)(d) to Michigan public service commission, see E.R.O. No. 2008-4, compiled at MCL 445.2025.

484.3204 Michigan broadband development authority; creation; duties.

Sec. 4.

- (1) The Michigan broadband development authority is created as a public body corporate and politic within the department of treasury.
- (2) The authority may do all of the following:
 - (a) Assist through financing and refinancing the expansion of broadband infrastructure services to residential,

commercial, public, and nonprofit customers in this state.

(b) Authorize the issuance of bonds and notes to finance or refinance the private and public sectors' development of the broadband infrastructure.

(c) Authorize the making of loans and joint venture and partnership arrangements subject to section 7(2) and (3) to broadband developers and broadband operators.

(d) Authorize the imposition and collection of rents, charges, and fees for the services furnished by the broadband infrastructure in conjunction with financing entered into by the authority.

(e) Enter into joint venture and partnership arrangements and partnerships subject to section 7(2) and (3) to acquire, construct, maintain, and operate the broadband infrastructure.

(f) Assist broadband developers and operators with all other matters necessary for the acquisition, construction, maintenance, and operation of the broadband infrastructure.

(g) Continuously evaluate all types of technologies in order to encourage the widest deployment of broadband services and broadband infrastructure in this state.

(h) Make broadband services to schools and libraries a priority under authority financing programs.

(i) Insure that the financing and refinancing of the development of broadband services under this act includes provisions that small businesses and that each region of this state have an equal opportunity to receive financing and refinancing.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of Michigan broadband development authority and its board of directors, with the exception of powers and duties under MCL 484.3207(1)(d), to the Michigan state housing development authority, and for transfer of powers and duties under MCL 484.3207(1)(d) to Michigan public service commission, see E.R.O. No. 2008-4, compiled at MCL 445.2025.

484.3205 Administrative functions; performance under direction and supervision of state treasurer.

Sec. 5.

The authority shall exercise its duties independently of the state treasurer. The budgeting, procurement, and related administrative functions of the authority shall be performed under the direction and supervision of the state treasurer.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of Michigan broadband development authority and its board of directors, with the exception of powers and duties under MCL 484.3207(1)(d), to the Michigan state housing development authority, and for transfer of powers and duties under MCL 484.3207(1)(d) to Michigan public service commission, see E.R.O. No. 2008-4, compiled at MCL 445.2025.

484.3206 Board of directors; membership; service of representative in member's absence; compensation; chairperson; officers; quorum; voting; open meetings act; confidentiality; "trade secrets, commercial, financial, or proprietary information" defined; employees; discharge of duties.

Sec. 6.

(1) The authority shall exercise its duties through its board of directors.

(2) The board shall be made up of the following members:

(a) The president and CEO of the Michigan economic development corporation.

(b) The state treasurer.

(c) The executive director of the Michigan state housing development authority.

(d) Eight members with knowledge, skill, or experience in the academic, business, technology, or financial fields appointed by the governor with the advice and consent of the senate. Not more than 2 of the 8 appointed members shall be, during their term on the board, employees of this state. The 2 members of the board who are employees of the state under this subdivision shall not hold any other positions with the state during their term on the board. Six

of the 8 appointed members shall serve for fixed terms. Not more than 3 of the 6 appointed members serving for fixed terms shall be members of the same political party. Of the 6 fixed-term members first appointed, 2 shall be appointed for a term that expires December 31, 2003, 2 shall be appointed for a term that expires December 31, 2004, and 2 shall be appointed for a term that expires December 31, 2005. Upon completion of each fixed term, a member shall be appointed for a term of 4 years. The 2 appointed members serving without a fixed term shall serve at the pleasure of the governor. The 8 appointed members shall serve until a successor is appointed. A vacancy in a fixed-term membership shall be filled for the balance of the unexpired term in the same manner as the original appointment. As used in this subdivision, "members of the same political party" includes a person who, in the determination of the governor, is currently a member of the same political party and a person who was a member of the same political party at any time within the immediately preceding 2 years, as attested by the person to be appointed.

(3) Each member of the board serving under subsection (2)(a), (b), and (c) may appoint a representative to serve in his or her absence.

(4) Except for the board president, who shall serve as the board's chief executive officer pursuant to subsection (5), and vice president, members of the board shall serve without compensation but may receive reasonable reimbursement for necessary travel and expenses incurred in the discharge of their duties. The board shall establish reasonable compensation for the board president and vice president.

(5) The governor shall designate 1 member of the board to serve as its chairperson who shall serve at the pleasure of the governor. Of the 2 board members serving without a fixed term at the pleasure of the governor, the governor shall designate 1 member to serve as the board's president and chief executive officer and the other member to serve as its vice president.

(6) A majority of the serving members of the board shall constitute a quorum of the board for the transaction of business. Actions of the board shall be approved by a majority vote of the members present at a meeting. The business of the board shall be conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(7) A record or portion of a record, material, information, or other data received, prepared, used, or retained by the authority in connection with an application to or project related to the broadband infrastructure assisted by the authority that relates to trade secrets, commercial, financial, or proprietary information submitted by the applicant, and which is requested in writing by the applicant and acknowledged in writing by the president of the authority to be confidential, is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. As used in this subsection, "trade secrets, commercial, financial, or proprietary information" means information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause the applicant significant competitive harm.

(8) The authority may employ or contract for legal, financial, and technical experts, and officers, agents, and employees, permanent and temporary, as the authority requires, and shall determine their qualifications, duties, and compensation. The board may delegate to 1 or more agents or employees those powers or duties with any limitations that the board considers proper.

(9) The members of the board and officers and employees of the authority are subject to 1968 PA 317, MCL 15.321 to 15.330, or 1968 PA 318, MCL 15.301 to 15.310.

(10) A member of the board or officer, employee, or agent of the authority shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging the duties of his or her position, a member of the board or an officer, employee, or agent of the authority, when acting in good faith, may rely upon the opinion of counsel for the authority, upon the report of an independent appraiser selected with reasonable care by the board, or upon financial statements of the authority represented to the member of the board or officer, employee, or agent of the authority to be correct by the president or the officer of the authority having charge of its books or account, or stated in a written report by a certified public accountant or firm of certified public accountants to fairly reflect the financial condition of the authority.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of Michigan broadband development authority and its board of directors, with the exception of powers and duties under MCL 484.3207(1)(d), to the Michigan state housing development authority, and for transfer of powers and duties under MCL 484.3207(1)(d) to Michigan public service commission, see E.R.O. No. 2008-4, compiled at MCL 445.2025.

484.3207 Powers of authority.

Sec. 7.

(1) The powers of the authority shall include all those necessary to carry out and effectuate the purposes of this act, including, but not limited to, all of the following:

(a) To borrow money and issue bonds and notes to fund operations of the authority, to finance or refinance part or all of the development costs of the broadband infrastructure, to refinance existing debt for technology that constitutes a part of or is related to the broadband infrastructure, and to secure bonds and notes by mortgage, assignment, or pledge of any of its revenues and assets.

(b) To invest any money of the authority at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for its money.

(c) To enter into joint venture and partnership arrangements subject to subsections (2) and (3) with persons that will acquire, construct, develop, maintain, and operate all or portions of the broadband infrastructure.

(d) To be designated the state program manager for federal telecommunications assistance, to represent this state in negotiations with the federal government regarding telecommunications assistance, and to receive and distribute federal funding, including loans, grants, and other forms of funding and assistance on this state's behalf.

(e) To receive and distribute state or local funding including grants, loans, general appropriations, or an appropriation made for the purposes under subsection (4).

(f) To make loans and to enter into any joint venture and partnership arrangements subject to subsections (2) and (3) with broadband developers and broadband operators that will acquire, construct, maintain, and operate all or portions of the broadband infrastructure.

(g) To provide operating assistance to make broadband services more affordable to broadband developers, broadband operators, and broadband customers, in conjunction with broadband infrastructure financed by the authority.

(h) To impose and collect charges, fees, or rentals for the services furnished by those portions of the broadband infrastructure financed by the authority under this act.

(i) To set construction, operation, and financing standards for the broadband infrastructure in connection with authority financing and to provide for inspections to determine compliance with those standards.

(j) To acquire from any person interests in real or personal property necessary for the operation of the authority.

(k) To procure insurance against any loss in connection with the broadband infrastructure and any other property, assets, or activities of the authority.

(l) To sue and be sued, to have a seal, and to make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise of the authority's powers.

(m) To enforce financial, operational, warranty, security, lease, and guaranty terms and conditions established under financings by the authority. The authority may under this subsection acquire, construct, develop, lease, create, and maintain all or portions of the broadband infrastructure and acquire from any person interests in real and personal property.

(n) To make and amend bylaws.

(o) To indemnify and procure insurance indemnifying any members of the board of the authority from personal liability by reason of their service as a board member.

(p) To investigate, evaluate, and assess the current broadband infrastructure and the future broadband infrastructure needs of this state and to encourage and participate in aggregation strategies for the broadband services of all public entities and nonprofit corporations in this state to maximize the interconnectivity and efficiencies of the broadband infrastructure.

(2) Notwithstanding any other provision of this act, the authority shall not make loans to, or enter into any joint venture and partnership arrangements or participation with, any governmental entity or nonprofit organization except in connection with the financing or refinancing of development costs for that allocable portion of the broadband infrastructure used or to be used exclusively by governmental entities or nonprofit organizations, including, but not limited to, universities, colleges, hospitals, school districts, public safety agencies, judicial organizations, libraries, cities, townships, and counties. No allocable portion of the broadband infrastructure financed by a loan to a governmental entity or a nonprofit organization shall be used to serve residential, business, or other commercial customers.

(3) Notwithstanding any other provision of this act, except in connection with financing or refinancing under subsection (2) or enforcement procedures authorized under subsection (1)(m), the authority shall acquire real or personal property constituting portions of the broadband infrastructure only in connection with the participation of persons other than governmental entities or nonprofit organizations through joint ventures and partnership arrangements, or other co-ownership arrangements and only if the participation is necessary to assure availability of financing or refinancing derived from the issuance by the authority of bonds or notes, the interest on which is exempt from taxation under the United States internal revenue code, and the financing derived from the tax-exempt bonds or notes is allocated only to those development costs relating to that portion of the broadband infrastructure that is to be used by governmental bodies or nonprofit organizations.

(4) The authority shall establish a seed capital loan program to make capital loans to persons planning to apply to

the authority for financing of broadband infrastructure. Priority for the seed capital loan program shall be given for developments targeted to underserved areas. During the initial 2 years of operations, the authority shall designate a minimum of \$500,000.00 to be targeted to rural underserved areas and a minimum of \$500,000.00 targeted to urban underserved areas. Community economic development programs and small providers shall be given a preference to receive loans under this subsection. The terms and conditions for the seed capital loans shall be established by the authority. As used in this act, "underserved areas" means geographical areas of this state identified by the authority as having the greatest need for broadband development. In identifying underserved areas, the authority shall consider the area's economic conditions, including, but not limited to, family income, affordability of access, lack of options available, low percentage of residents subscribing, and any other criteria considered important by the authority in determining whether an area is underserved.

(5) As part of an application for financing under this act, the broadband developer and broadband operator shall file with the authority a participation plan for small and minority owned businesses and a communitywide outreach plan to educate the public of the availability of broadband services. The authority shall not approve an application unless a plan is submitted under this subsection.

(6) Priority shall be given to the application of any broadband developer who applies to develop broadband capability within a recovery zone as that term is defined in section 8d of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2688d.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002 ;-- Am. 2003, Act 265, Imd. Eff. Jan. 5, 2004

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of Michigan broadband development authority and its board of directors, with the exception of powers and duties under MCL 484.3207(1)(d), to the Michigan state housing development authority, and for transfer of powers and duties under MCL 484.3207(1)(d) to Michigan public service commission, see E.R.O. No. 2008-4, compiled at MCL 445.2025. For transfer of powers and duties of Michigan broadband development authority under MCL 484.3207(1)(p) to department of information technology, and abolishment of the authority and its board of directors, see E.R.O. No. 2008-4, compiled at MCL 445.2025.

484.3208 Reserve capital account; creation; administration; credit of proceeds from sale of notes or bonds; capital reserve fund; creation; use; security arrangements; transfer of income or interest earned.

Sec. 8.

(1) A reserve capital account is created under the jurisdiction and control of the authority and shall be administered by the authority to secure notes and bonds of the authority. The authority shall credit to the reserve capital account the proceeds of the sale of notes or bonds to the extent provided for in the authorizing resolution of the authority, and any other money that is made available to the authority for the purpose of the reserve capital account.

(2) In the resolution authorizing the issuance of notes or bonds, the authority may establish a capital reserve fund for the payment of the principal and interest of notes or bonds, for the purchase or redemption of the notes or bonds, or for the payment of a redemption premium required to be paid when the notes or bonds are redeemed before maturity. The authority shall not use a capital reserve fund for an optional purchase or optional redemption of notes or bonds if the use would reduce the total of the money in the capital reserve fund to less than the capital reserve fund requirement established for the fund.

(3) In addition to, or in lieu of, depositing money in the reserve capital account or in a capital reserve fund, the authority may obtain or pledge letters of credit, insurance policies, surety bonds, guarantees, or other security arrangements if the security arrangements are approved by the state treasurer. The amount available under letters of credit, insurance policies, surety bonds, guarantees, or other security arrangements pledged to the capital reserve fund shall be credited toward the capital reserve fund requirement for the fund.

(4) Income or interest earned by the reserve capital account may be transferred by the authority to other funds or accounts of the authority.

(5) Income or interest earned by a capital reserve fund may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the total of the amount of money and security arrangements authorized under subsection (3) in the fund below the capital reserve fund requirement for that fund.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3209 Capital reserve fund; amount; deficiency; restoration; liability of state for notes or bonds.

Sec. 9.

(1) The authority shall accumulate in a capital reserve fund an amount equal to the capital reserve fund requirement for that fund. If at any time the amount of a capital reserve fund falls below the capital reserve fund requirement for that fund, the authority shall transfer from the reserve capital account to the capital reserve fund an amount equal to the capital reserve fund requirement. If a deficiency exists in more than 1 capital reserve fund and the amount in the reserve capital account is not sufficient to fully restore the capital reserve funds, the money in the reserve capital account shall be allocated between the deficient capital reserve funds pro rata according to the amounts of the deficiencies. If at any time the reserve capital account has been exhausted and the amount of the capital reserve fund is insufficient to meet the capital reserve fund requirement, the authority on or before September 1 shall certify to the governor the amount necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement for that fund. The governor shall include in his or her annual budget the amount certified under this subsection by the authority.

(2) This state is not liable on notes or bonds of the authority and the notes and bonds are not a debt of this state. The notes and bonds shall contain on their face a statement of the limitation contained under this section.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3210 Notes and bonds; issuance, renewal, and refund by authority.

Sec. 10.

(1) The authority may issue notes and bonds as provided under this act to do all of the following:

- (a) Pay the development costs associated with acquiring, leasing, constructing, maintaining, and operating the broadband infrastructure.
- (b) Make loans to persons for development costs.
- (c) Make loans to persons to make purchases related to the broadband infrastructure.
- (d) Make loans to persons to refinance existing debt of the authority or other persons incurred in connection with the acquisition or development of technology that constitutes a part of or is related to the broadband infrastructure.
- (e) Pay the interest on bonds and notes of the authority.
- (f) Establish reserves to secure the bonds and notes of the authority.
- (g) Make other expenditures necessary to carry out the authority's duties under this act, including the payment of the authority's operating expenses.

(2) The authority may issue renewal notes, issue bonds to pay notes, and refund bonds by the issuance of new bonds, whether or not the bonds to be refunded have matured. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. The authority may issue instruments separate from the obligations described in this subsection that establish a contractual right in the holder of the instrument to require mandatory tender for purchase of the obligations to which the instrument applies for a period of time and subject to provisions as the authority may determine.

(3) Except as otherwise provided by the authority or this act, every note or bond issue of the authority shall be a general obligation of the authority payable out of revenues or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging any particular receipts or revenues.

(4) Whether or not the notes or bonds are of a form or character as to be negotiable instruments, the notes or bonds are negotiable instruments within the meaning of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3211 Notes and bonds; issuance by resolution; form and terms; sale; prices.

Sec. 11.

(1) The notes and bonds shall be authorized by resolution of the authority and mature at the time provided in the resolution. The notes and bonds shall be in a form, bear interest at a rate or rates, be in the denominations, carry registration privileges, be payable, and be subject to the terms of redemption as provided in the resolution.

(2) The notes and bonds of the authority may be sold by the authority at public or private sales at prices as the authority determines.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3212 Notes or bonds; contents of resolutions.

Sec. 12.

A resolution relating to authorizing notes or bonds may contain any of the following provisions, which shall be a part of the contract with the holders of the notes or bonds:

(a) Pledging all or any part of the revenues of the authority, and all or any part of the money received in payment of loans and interest on loans, and other money received or to be received to secure the payment of the notes or bonds.

(b) Pledging all or any part of the assets of the authority, including mortgages and obligations obtained by the authority in connection with its programs, to secure the payment of the notes or bonds.

(c) Pledging any loan, grant, or contribution from a government entity.

(d) The use and disposition of the gross income from contracts and leases of the authority.

(e) The setting aside of reserves or sinking funds and the regulation and disposition of reserves or sinking funds.

(f) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging proceeds to secure the payment of the notes or bonds.

(g) Limitations on the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding or other notes or bonds.

(h) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which shall consent to the amendment or abrogation, and the manner in which the consent is to be given.

(i) Vesting in a trustee or trustees property, rights, powers, and duties in trust as the authority may determine, which may include any of the rights, powers, and duties of the trustee appointed by the bondholders under this act and limiting or abrogating the right of the bondholders to appoint a trustee under this section or limiting the rights, powers, and duties of the trustee.

(j) Establishing a contractual right to require mandatory tender for purchase of the notes or bonds in an instrument separate from the notes or bonds. The instrument may be issued or sold by the authority to investors.

(k) Except as otherwise prohibited by this act, any other provision that may affect the security or protection of the notes or bonds.

(l) Delegating to an officer or other employee of the authority, or an agent designated by the authority, for a period of time as the authority determines, the power to cause the issue, sale, and delivery of the notes or bonds within limits on those notes or bonds established by the authority as to any of the following:

(i) The form.

(ii) The maximum interest rate or rates.

(iii) The maturity date or dates.

(iv) The purchase price.

(v) The denominations.

(vi) The redemption premiums.

(vii) The nature of the security.

(viii) The selection of the applicable interest rate index.

(ix) Other terms and conditions with respect to issuance of the notes or bonds as the authority shall prescribe.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3213 Money or property pledged and received by authority.

Sec. 13.

(1) Any pledge made by the authority is valid and binding from the date that the pledge is made.

(2) The money or property pledged and received by the authority shall immediately be subject to the lien of the pledge without any physical delivery or further act and the lien of the pledge is valid and binding against all parties having claims in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien.

(3) The resolution or any other instrument by which a pledge is created need not be recorded.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3214 Notes or bonds; personal liability.

Sec. 14.

The members of the board or any person executing the notes or bonds under this act are not liable personally on the notes or bonds or subject to any personal liability or accountability by reason of the issuance of the notes or bonds.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3215 Notes or bonds; power of authority to purchase.

Sec. 15.

Subject to any agreements with noteholders or bondholders, the authority has the power to use any funds available to purchase notes or bonds of the authority at a price determined by the authority.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3216 Rights of authority to fulfill terms of agreement not limited, altered, or impaired.

Sec. 16.

This state pledges and agrees with the holders of any notes or bonds issued under this act, that this state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders, or in any way impair the rights and remedies of the holders until the notes or bonds, together with earned interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of this state in any agreement with the holders of notes or bonds under this act.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3217 Notes or bonds as limited obligations.

Sec. 17.

(1) The authority may issue notes or bonds that are expressly stated not to be general obligations of the authority but that constitute limited obligations of the authority payable solely from and secured solely by the revenues, money, and property as the authority may specify.

(2) The notes or bonds designated as limited obligations under this section shall not be payable from or secured by the reserve capital account, and any reserve fund established for the limited obligation notes or bonds shall not constitute a capital reserve fund under this act.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3218 Default.

Sec. 18.

(1) If the authority defaults in the payment of principal or interest of any notes or bonds when due, whether at maturity or upon call for redemption, and the default continues for a period of 30 days, or if the authority fails or refuses to comply with this act, or defaults in any agreement made with the holders of any notes or bonds, the holders of 25% in aggregate principal amount of the notes or bonds then outstanding may apply to the circuit court of Ingham county for the appointment of a trustee to represent the holders of the notes or bonds.

(2) A trustee appointed under this act may, and upon the written request of the holders of 25% in aggregate principal amount of the notes or bonds shall, do any of the following:

(a) Enforce all rights of the noteholders or bondholders, including the right to require the authority to perform its duties under this act.

(b) Bring suit upon the notes or bonds.

(c) Require the authority to account as if it were the trustee of an express trust for the holders of the notes or bonds.

(d) Enjoin any acts or things that may be unlawful or in violation of the rights of the holders of the notes or bonds.

(e) Declare all the notes or bonds due and payable.

(3) Before declaring the principal of notes or bonds due and payable, the trustee shall first give 30 days' notice in writing to the governor, to the authority, and to the attorney general.

(4) The trustee has all of the powers necessary or appropriate for the general representation of bondholders or noteholders in the enforcement and protection of their rights.

(5) An action under this section shall be brought in the circuit court for the county of Ingham.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3219 Disposition of money held by authority.

Sec. 19.

(1) Money of the authority shall be held by the authority and deposited in a financial institution approved by the state treasurer, which financial institution may give security for the deposits.

(2) The authority may, subject to the approval of the state treasurer, contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of money of the authority, of any money held in trust or otherwise for the payment of notes or bonds, and to carry out the contract. Money held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of money may be secured in the same manner as money of the authority.

(3) The authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance of its notes or bonds or in connection with its then outstanding notes or bonds.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3220 Notes and bonds as securities; investment.

Sec. 20.

The notes and bonds of the authority are securities in which public officers and bodies of this state and municipalities and municipal subdivisions, insurance companies and associations and other persons carrying on an insurance business, banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, administrators, guardians, executors, trustees and other fiduciaries, and any other person who is now or may be authorized to invest in bonds or other obligations of this state, may properly and legally invest funds, including capital, in their control or belonging to them.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3221 Full faith and credit bonds; issuance; vote.

Sec. 21.

The authority, at its discretion, may recommend an issuance of full faith and credit bonds to the legislature for a vote of the people.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3222 Notes and bonds; exemption from tax.

Sec. 22.

This state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued under this act and the income from the notes and bonds and all its fees, charges, grants, revenues, receipts, and other money received or to be received, pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state, city, county, or other taxation provided by the laws of this state, except for estate and gift taxes and taxes on transfers.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3223 Property; exemption from tax.

Sec. 23.

The property of the authority and its income and operation are exempt from all taxation by this state or any of its political subdivisions.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3224 Annual report.

Sec. 24.

The authority shall submit an annual report no later than March 1 of each year relating to its activities for the preceding calendar year to the governor, the speaker of the house of representatives, the majority leader of the senate, and to each member of the house and senate committees with oversight over utility and energy issues.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

484.3225 New partnerships or joint ventures; limitation.

Sec. 25.

Except to the extent necessary to maintain, improve, complete, or expand within the defined service area, an element of the broadband infrastructure already acquired or financed under this act, the authority shall not enter into new partnerships or other joint ventures arrangements or provide new loans or joint venture and partnership arrangements after December 31, 2008.

History: 2002, Act 49, Imd. Eff. Mar. 14, 2002

Compiler's Notes: For transfer of powers and duties of Michigan broadband development authority from department of treasury to department of labor and economic growth by Type I transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

BROADBAND EXPANSION ACT OF MICHIGAN

Act 224 of 2020

AN ACT to prescribe the powers and duties of certain state governmental officers and entities; to create a statewide broadband service grant program; and to establish a process for the application and awarding of grant money.

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

The People of the State of Michigan enact:

484.3251 Short title.

Sec. 1.

This act shall be known and may be cited as the "broadband expansion act of Michigan".

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

484.3252 Definitions.

Sec. 2.

As used in this act:

(a) "Applicant" means an internet service provider that submits an application for a grant after collaborating with the community in the unserved area.

(b) "Broadband service" means a retail service, not including a satellite service, capable of delivering high-speed internet access at speeds of at least 25 megabits per second downstream and 3 megabits per second upstream.

(c) "Department" means the department of technology, management, and budget.

(d) "Deployed" means that a provider meets either of the following:

(i) Currently provides broadband service of at least 25 megabits per second download and 3 megabits per second upload in the specific geographic area of the proposed project of the applicant.

(ii) Is able to provide broadband service of at least 25 megabits per second download and 3 megabits per second upload in a specific geographic area of the proposed project of the applicant to a customer that requests that service not later than 30 days after the customer requests installation of that service and without an extraordinary commitment of resources or construction charges or fees exceeding an ordinary service activation fee. The 30-day time period is extended to 60 days if permits are needed before the broadband service is activated.

(e) "Internet service provider" means any of the following:

(i) An entity holding a license under the Michigan telecommunications act, 1991 PA 179, MCL 484.2101 to 484.2603.

(ii) An entity holding a franchise under the uniform video services local franchise act, 2006 PA 480, MCL 484.3301 to 484.3315.

(iii) An entity currently providing broadband service in this state.

(f) "Person" includes an individual, community organization, cooperative association, corporation, federally recognized Indian tribe, limited liability company, nonprofit corporation, partnership, or political subdivision of this state.

(g) "Trade secrets" means trade secret as that term is defined in section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902.

(h) "Unserved area" means any of the following:

(i) A census block lacking access to broadband service from at least 1 internet service provider.

(ii) An area lacking access to broadband service from at least 1 internet service provider according to the most accurate and granular data on the broadband map created by the Federal Communications Commission.

- (iii) An area delineated by the department by the process established in section 8.

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

484.3253 Statewide broadband service grant program; appropriation.

Sec. 3.

Within 60 days after receiving an appropriation or federal funding to implement this act, the department shall establish and implement a statewide broadband service grant program called the broadband expansion act of Michigan grant program. Money for the program must be provided by appropriation or by federal funding as provided by law and managed by the department.

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

484.3254 Awarding of grants for unserved areas; certain conditions prohibited; limitations.

Sec. 4.

(1) The department shall only use money from the grant program to award grants to applicants for projects that exclusively extend broadband service into unserved areas in this state and for the department's costs to administer the program.

(2) The department shall not, directly or indirectly, award grant money to a governmental entity or educational institution or an affiliate, to own, purchase, construct, operate, or maintain a communications network, or to provide service to any residential or commercial premises.

(3) The department shall not, as a condition of an award of grant money, impose an open network architecture requirement, rate regulation, or other term or condition of service that differs from the applicant's terms or conditions of service in its other service areas.

(4) An applicant shall not receive a grant for the same project or geographic area for which the applicant has obtained federal, state, or local government funding awarded specifically to support the expansion of broadband networks. The department shall not award more than \$5,000,000.00 to any 1 project or to any 1 applicant. The department shall award initial grant money within 270 days after the money is made available under this program.

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

484.3255 Competitive grant process; criteria; priorities.

Sec. 5.

(1) An award of funds must be issued by a competitive grant process. The grant process must be technology neutral, and result in awards to applicants proposing projects based on objective and efficient procedures. The criteria for determining the award of funds must include the following:

- (a) The applicant's experience and financial wherewithal.

- (b) The readiness to build, operate, and maintain the project.
- (c) The long-term viability of the project.
- (d) The scalability of the network.
- (e) The applicant's ability to leverage broadband for community and economic development.
- (f) The applicant's ability to provide discounted broadband service throughout the unserved area to low-income households.

(2) Priority must be given to projects that demonstrate collaboration to achieve community investment and economic development goals of the area impacted, and that are able to demonstrate that they have the managerial, financial, and technical ability to build, operate, and manage a broadband network.

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

484.3256 Competitive scoring criteria; establish and publish on website.

Sec. 6.

Within 30 days after receiving an appropriation or federal funding to implement this act, the department shall establish and publish on the department's website the criteria for competitively scoring applications. Within 60 days after the department publishes the criteria, applicants shall submit their applications for funding of their proposed project.

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

484.3257 Application requirement; priorities in making grant award recommendations; publication of grant recommendations; conditions of denial.

Sec. 7.

- (1) An applicant for a grant under this act shall provide the following information on the application:
 - (a) The location of the project in the unserved area described by either the specific street addresses to be served or a shapefile as that term is defined in 47 USC 641.
 - (b) The kind and amount of broadband infrastructure to be purchased for the project.
 - (c) Evidence regarding the unserved nature of the community in which the project is to be located.
 - (d) The number of households that will have access to broadband service as a result of the project, or whose internet access service will be upgraded to broadband service as a result of the project.
 - (e) The significant community institutions that will benefit from the proposed project.
 - (f) Evidence of community support for the project with a narrative on the impact that the investment will have on community and economic development efforts in the area.
 - (g) The total cost of the project and a detailed budget and schedule for the project.
 - (h) All sources of funding or in-kind contributions for the project in addition to any grant award.
 - (i) The internet service provider's experience and financial wherewithal.
- (2) The applicant's trade secrets, financial information, and proprietary information submitted under this act as part of an application are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (3) After scoring and considering all grant applications, the department shall make grant award recommendations. The department shall give priority in making grant award recommendations to applications that demonstrate 1 or more of the following:
 - (a) Collaboration to achieve community investment and economic development goals of an impacted area.
 - (b) The applicant has the managerial, financial, and technical ability to build, operate, and manage a broadband

network.

(c) The likelihood that the unserved area will not be served without state grant funding.

(d) The project will serve a larger unserved area or a greater number of locations within an unserved area than other proposed applications.

(e) The ability of the applicant to commit to providing at least 50% of the cost to deploy the project set forth in the application.

(4) Within 30 days after the award recommendations have been made, the department shall publish on its website the grant applications, redacted according to section 14 of the freedom of information act, 1976 PA 442, MCL 15.244, the proposed geographic broadband service area, and the proposed broadband service speeds for each application that receives an award recommendation.

(5) Before granting an award to an applicant, the department shall establish a period of at least 60 days after the date the award recommendations are published on the department's website, during which time the department shall accept comments or objections concerning each application. The department shall consider all comments or objections received, and investigate them as needed, in deciding whether an applicant is eligible for a grant. If an objection submitted by a provider contains information that requires an investigation and the objection is found to be inaccurate, the provider shall reimburse the department for the cost of verifying the information.

(6) The department shall not award a grant to an applicant if verifiable information is made available that shows any of the following:

(a) The proposed project includes an area where at least 1 provider has deployed broadband service.

(b) The department receives a sworn statement from an officer of an internet service provider that the proposed project includes an area where construction of a network to provide broadband service is underway, and the construction is scheduled to be completed within 1 year after the date of the application.

(c) The department receives a sworn statement from an officer of an internet service provider that the proposed project includes either of the following:

(i) A specific geographical area where an internet service provider has been selected to receive, provisionally or otherwise, funding by the Federal Communications Commission or the United States Department of Agriculture specifically for the expansion of broadband services. This subparagraph does not apply to an area once either of the following has occurred:

(A) The internet service provider does not complete the requirements for obtaining the funding described in this subparagraph.

(B) The time period for the internet service provider to meet its obligation described in this subparagraph has expired and the area remains unserved.

(ii) An area where the construction of a network to provide broadband service is to be completed no later than 2 years after the date of an application.

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

484.3258 Request to delineate an area as unserved; requirements; subject to challenge by internet service providers.

Sec. 8.

(1) As part of an application under this act, an applicant may request that the department specifically delineate an area within a census block as being an unserved area. To tentatively establish an unserved area within a census block, an applicant must attest to all of the following:

(a) The delineated area within the census block is unserved and does not have access to broadband service.

(b) To the best of the applicant's knowledge, no other internet service provider has plans to provide broadband service within the delineated area within 3 years after the date of the application.

(c) The delineated area is not within a census block that has been selected to receive, provisionally or otherwise, funding to support the expansion of broadband networks from the Federal Communications Commission or the United States Department of Agriculture.

(2) If a delineated area within a census block is tentatively determined by the department to be an unserved area, the recommended grant award for the application is still subject to a challenge by internet service providers under section 7(5) and (6).

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

484.3259 Notice of grant award recipients.

Sec. 9.

At the time a grant is awarded to an applicant, the department shall immediately provide notice on its website of each application receiving a grant, including the name of the entity, the amount of money being received, the broadband speed, and the unserved area for which the applicant is receiving the grant.

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

484.3260 Semiannual report.

Sec. 10.

The department shall require an applicant awarded a grant to submit a semiannual report from the time the applicant receives the grant to 3 years after completion of the project. The semiannual reports must be made available on the department's website with any proprietary information redacted. The reports must be in a format specified by the department and give an accounting by the applicant of the use of the money received and the progress toward fulfilling the objectives for which the money were granted, including all of the following:

- (a) The number and location of residences and businesses that will have access to the broadband service.
- (b) The speed of broadband service.
- (c) The average price of broadband service.
- (d) The broadband service adoption rates.

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

484.3261 Falsification of statement; ineligible for grant.

Sec. 11.

A person that files a false statement under this act is ineligible to receive a grant under this act the next time grants are issued after filing that false statement.

History: 2020, Act 224, Imd. Eff. Oct. 16, 2020

UNIFORM VIDEO SERVICES LOCAL FRANCHISE ACT

Act 480 of 2006

AN ACT to provide for uniform video service local franchises; to promote competition in providing video services in this state; to ensure local control of rights-of-way; to provide for fees payable to local units of government; to provide for local programming; to prescribe the powers and duties of certain state and local agencies and officials; and to provide for penalties.

History: 2006, Act 480, Eff. Jan. 1, 2007

The People of the State of Michigan enact:

484.3301 Short title; definitions.

Sec. 1.

- (1) This act shall be known and may be cited as the "uniform video services local franchise act".
- (2) As used in this act:
 - (a) "Cable operator" means that term as defined in 47 USC 522(5).
 - (b) "Cable service" means that term as defined in 47 USC 522(6).
 - (c) "Cable system" means that term as defined in 47 USC 522(7).
 - (d) "Commission" means the Michigan public service commission.
 - (e) "Franchising entity" means the local unit of government in which a provider offers video services through a franchise.
 - (f) "Household" means a house, an apartment, a mobile home, or any other structure or part of a structure intended for residential occupancy as separate living quarters.
 - (g) "Incumbent video provider" means a cable operator serving cable subscribers or a telecommunication provider providing video services through the provider's existing telephone exchange boundaries in a particular franchise area within a local unit of government on the effective date of this act.
 - (h) "IPTV" means internet protocol television.
 - (i) "Local unit of government" means a city, village, or township.
 - (j) "Low-income household" means a household with an average annual household income of less than \$35,000.00 as determined by the most recent decennial census.
 - (k) "Open video system" or "OVS" means that term as defined in 47 USC 573.
 - (l) "Person" means an individual, corporation, association, partnership, governmental entity, or any other legal entity.
 - (m) "Public rights-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easements dedicated for compatible uses.
 - (n) "Uniform video service local franchise agreement" or "franchise agreement" means the franchise agreement required under this act to be the operating agreement between each franchising entity and video provider in this state.
 - (o) "Video programming" means that term as defined in 47 USC 522(20).
 - (p) "Video service" means video programming, cable services, IPTV, or OVS provided through facilities located at least in part in the public rights-of-way without regard to delivery technology, including internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 USC 332(d) or provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public internet.
 - (q) "Video service provider" or "provider" means a person authorized under this act to provide video service.
 - (r) "Video service provider fee" means the amount paid by a video service provider or incumbent video provider under section 6.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3302 Uniform video service local franchise agreement; form; provisions.

Sec. 2.

(1) No later than 30 days from the effective date of this act, the commission shall issue an order establishing the standardized form for the uniform video service local franchise agreement to be used by each franchising entity in this state.

(2) Except as otherwise provided by this act, a person shall not provide video services in any local unit of government without first obtaining a uniform video service local franchise as provided under section 3.

(3) The uniform video service local franchise agreement created under subsection (1) shall include all of the following provisions:

(a) The name of the provider.

(b) The address and telephone number of the provider's principal place of business.

(c) The name of the provider's principal executive officers and any persons authorized to represent the provider before the franchising entity and the commission.

(d) If the provider is not an incumbent video provider, the date on which the provider expects to provide video services in the area identified under subdivision (e).

(e) An exact description of the video service area footprint to be served, as identified by a geographic information system digital boundary meeting or exceeding national map accuracy standards. For providers with 1,000,000 or more access lines in this state using telecommunication facilities to provide video services, the footprint shall be identified in terms of entire wire centers or exchanges. An incumbent video provider satisfies this requirement by allowing a franchising entity to seek right-of-way related information comparable to that required by a permit under the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3101 to 484.3120, as set forth in its last cable franchise or consent agreement from the franchising entity entered before the effective date of this act.

(f) A requirement that the provider pay the video service provider fees required under section 6.

(g) A requirement that the provider file in a timely manner with the federal communications commission all forms required by that agency in advance of offering video service in this state.

(h) A requirement that the provider agrees to comply with all valid and enforceable federal and state statutes and regulations.

(i) A requirement that the provider agrees to comply with all valid and enforceable local regulations regarding the use and occupation of public rights-of-way in the delivery of the video service, including the police powers of the franchising entity.

(j) A requirement that the provider comply with all federal communications commission requirements involving the distribution and notification of federal, state, and local emergency messages over the emergency alert system applicable to cable operators.

(k) A requirement that the provider comply with the public, education, and government programming requirements of section 4.

(l) A requirement that the provider comply with all customer service rules of the federal communications commission under 47 CFR 76.309(c) applicable to cable operators and applicable provisions of the Michigan consumers protection act, 1976 PA 331, MCL 445.901 to 445.922.

(m) A requirement that the provider comply with the consumer privacy requirements of 47 USC 551 applicable to cable operators.

(n) A requirement that the provider comply with in-home wiring and consumer premises wiring rules of the federal communications commission applicable to cable operators.

(o) A requirement that an incumbent video provider comply with the terms which provide insurance for right-of-way related activities that are contained in its last cable franchise or consent agreement from the franchising entity entered before the effective date of this act.

(p) A grant of authority by the franchising entity to provide video service in the video service area footprint as described under subdivision (e).

(q) A grant of authority by the franchising entity to use and occupy the public rights-of-way in the delivery of the video service, subject to the laws of this state and the police powers of the franchising entity.

(r) A requirement that the parties to the agreement are subject to the provisions of this act.

(s) The penalties provided for under section 14.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3303 Franchise agreement with local unit of government; notice of completion; approval; transferability; termination or modification; notice of change in information; duration of franchise;

renewal; certain conditions prohibited.

Sec. 3.

(1) Before offering video services within the boundaries of a local unit of government the video provider shall enter into or possess a franchise agreement with the local unit of government as required by this act.

(2) A franchising entity shall notify the provider as to whether the submitted franchise agreement is complete as required by this act within 15 business days after the date that the franchise agreement is filed. If the franchise agreement is not complete, the franchising entity shall state in its notice the reasons the franchise agreement is incomplete.

(3) A franchising entity shall have 30 days after the submission date of a complete franchise agreement to approve the agreement. If the franchising entity does not notify the provider regarding the completeness of the franchise agreement or approve the franchise agreement within the time periods required under this subsection, the franchise agreement shall be considered complete and the franchise agreement approved.

(4) The uniform video service local franchise agreement issued by a franchising entity or an existing franchise of an incumbent video service provider is fully transferable to any successor in interest to the provider to which it is initially granted. A notice of transfer shall be filed with the franchising entity within 15 days of the completion of the transfer.

(5) The uniform video service local franchise agreement issued by a franchising entity may be terminated or the video service area footprint may be modified, except as provided under section 9, by the provider by submitting notice to the franchising entity.

(6) If any of the information contained in the franchise agreement changes, the provider shall timely notify the franchising entity.

(7) The uniform video service local franchise shall be for a period of 10 years from the date it is issued. Before the expiration of the initial franchise agreement or any subsequent renewals, the provider may apply for an additional 10-year renewal under this section.

(8) As a condition to obtaining or holding a franchise, a franchising entity shall not require a video service provider to obtain any other franchise, assess any other fee or charge, or impose any other franchise requirement than is allowed under this act. For purposes of this subsection, a franchise requirement includes, but is not limited to, a provision regulating rates charged by video service providers, requiring the video service providers to satisfy any build-out requirements, or a requirement for the deployment of any facilities or equipment.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3304 Public, education, and government access channels; availability; manner of retransmission; interconnection; editorial control; liability; access to signals of local broadcast television station; prohibited conduct by provider; use of reception technology; use for noncommercial purposes; applicability of subsections (7) to (11); request specifying number of channels in actual use.

Sec. 4.

(1) A video service provider shall designate a sufficient amount of capacity on its network to provide for the same number of public, education, and government access channels that are in actual use on the incumbent video provider system on the effective date of this act or as provided under subsection (14).

(2) Any public, education, or government channel provided under this section that is not utilized by the franchising entity for at least 8 hours per day for 3 consecutive months may no longer be made available to the franchising entity and may be programmed at the provider's discretion. At such time as the franchising entity can certify a schedule for at least 8 hours of daily programming for a period of 3 consecutive months, the provider shall restore the previously reallocated channel.

(3) The franchising entity shall ensure that all transmissions, content, or programming to be retransmitted by a video service provider is provided in a manner or form that is capable of being accepted and retransmitted by a provider, without requirement for additional alteration or change in the content by the provider, over the particular network of the provider, which is compatible with the technology or protocol utilized by the provider to deliver services.

(4) A video service provider may request that an incumbent video provider interconnect with its video system for the sole purpose of providing access to video programming that is being provided over public, education, and government channels for a franchising entity that is served by both providers. Where technically feasible, interconnection shall be allowed under an agreement of the parties. The video service provider and incumbent video

provider shall negotiate in good faith and may not unreasonably withhold interconnection. Interconnection may be accomplished by any reasonable method as agreed to by the providers. The requesting video service provider shall pay the construction, operation, maintenance, and other costs arising out of the interconnection, including the reasonable costs incurred by the incumbent provider.

(5) The person producing the broadcasts is solely responsible for all content provided over designated public, education, or government channels. A video service provider shall not exercise any editorial control over any programming on any channel designed for public, education, or government use.

(6) A video service provider is not subject to any civil or criminal liability for any program carried on any channel designated for public, education, or government use.

(7) Except as otherwise provided in subsection (8), a provider shall provide subscribers access to the signals of the local broadcast television station licensed by the federal communications commission to serve those subscribers over the air. This section does not apply to a low-power station unless the station is a qualified low-power station as defined under 47 USC 534(h)(2). A provider is required to only carry digital broadcast signals to the extent that a broadcast television station has the right under federal law or regulation to demand carriage of the digital broadcast signals by a cable operator on a cable system.

(8) To facilitate access by subscribers of a video service provider to the signals of local broadcast stations under this section, a station either shall be granted mandatory carriage or may request retransmission consent with the provider.

(9) A provider shall transmit, without degradation, the signals a local broadcast station delivers to the provider. A provider is not required to provide a television station valuable consideration in exchange for carriage.

(10) A provider shall not do either of the following:

(a) Discriminate among or between broadcast stations and programming providers with respect to transmission of their signals, taking into account any consideration afforded the provider by the programming provider or broadcast station. In no event shall the signal quality as retransmitted by the provider be required to be superior to the signal quality of the broadcast stations as received by the provider from the broadcast television station.

(b) Delete, change, or alter a copyright identification transmitted as part of a broadcast station's signal.

(11) A provider shall not be required to utilize the same or similar reception technology as the broadcast stations or programming providers.

(12) A public, education, or government channel shall only be used for noncommercial purposes.

(13) Subsections (7) to (11) apply only to a video service provider that delivers video programming in a video service area where the provider is not regulated as a cable operator under federal law.

(14) If a franchising entity seeks to utilize capacity designated under subsection (1) or an agreement under section 13 to provide access to video programming over 1 or more public, governmental, and education channels, the franchising entity shall give the provider a written request specifying the number of channels in actual use on the incumbent video provider's system or specified in the agreement entered into under section 13. The video service provider shall have 90 days to begin providing access as requested by the franchising entity.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3305 Renewal or extension of existing franchise agreement; unreasonable and unenforceable provisions; burdensome terms, conditions, or requirements.

Sec. 5.

(1) As of the effective date of this act, no existing franchise agreement with a franchising entity shall be renewed or extended upon the expiration date of the agreement.

(2) The incumbent video provider, at its option, may continue to provide video services to the franchising entity by electing to do 1 of the following:

(a) Terminate the existing franchise agreement before the expiration date of the agreement and enter into a new franchise under a uniform video service local franchise agreement.

(b) Continue under the existing franchise agreement amended to include only those provisions required under a uniform video service local franchise.

(c) Continue to operate under the terms of an expired franchise until a uniform video service local franchise agreement takes effect. An incumbent video provider has 120 days after the effective date of this act to file for a uniform video service local franchise agreement.

(3) On the effective date of this act, any provisions of an existing franchise that are inconsistent with or in addition to the provisions of a uniform video service local franchise agreement are unreasonable and unenforceable

by the franchising entity.

(4) If a franchising entity authorizes 2 or more video service providers through an existing franchise, a uniform video service local franchise agreement, or an agreement under section 13, the franchising entity shall not enforce any term, condition, or requirement of any franchise agreement that is more burdensome than the terms, conditions, or requirements contained in another franchise agreement.

History: 2006, Act 480, Eff. Jan. 1, 2007

***** 484.3306 Subsection (13) does not apply after December 31, 2009 *****

484.3306 Video service provider fee; payment; "gross revenues" defined; calculation; additional fee; credits; assessment; inapplicability of subsection after December 31, 2009.

Sec. 6.

(1) A video service provider shall calculate and pay an annual video service provider fee to the franchising entity. The fee shall be 1 of the following:

(a) If there is an existing franchise agreement, an amount equal to the percentage of gross revenues paid to the franchising entity by the incumbent video provider with the largest number of subscribers in the franchising entity.

(b) At the expiration of an existing franchise agreement or if there is no existing franchise agreement, an amount equal to the percentage of gross revenues as established by the franchising entity not to exceed 5% and shall be applicable to all providers.

(2) The fee due under subsection (1) shall be due on a quarterly basis and paid within 45 days after the close of the quarter. Each payment shall include a statement explaining the basis for the calculation of the fee.

(3) The franchising entity shall not demand any additional fees or charges from a provider and shall not demand the use of any other calculation method other than allowed under this act.

(4) For purposes of this section, "gross revenues" means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the provider from subscribers for the provision of video service by the video service provider within the jurisdiction of the franchising entity. Gross revenues shall include all of the following:

(a) All charges and fees paid by subscribers for the provision of video service, including equipment rental, late fees, insufficient funds fees, fees attributable to video service when sold individually or as part of a package or bundle, or functionally integrated, with services other than video service.

(b) Any franchise fee imposed on the provider that is passed on to subscribers.

(c) Compensation received by the provider for promotion or exhibition of any products or services over the video service.

(d) Revenue received by the provider as compensation for carriage of video programming on that provider's video service.

(e) All revenue derived from compensation arrangements for advertising attributable to the local franchise area.

(f) Any advertising commissions paid to an affiliated third party for video service advertising.

(5) Gross revenues do not include any of the following:

(a) Any revenue not actually received, even if billed, such as bad debt net of any recoveries of bad debt.

(b) Refunds, rebates, credits, or discounts to subscribers or a municipality to the extent not already offset by subdivision (a) and to the extent the refund, rebate, credit, or discount is attributable to the video service.

(c) Any revenues received by the provider or its affiliates from the provision of services or capabilities other than video service, including telecommunications services, information services, and services, capabilities, and applications that may be sold as part of a package or bundle, or functionally integrated, with video service.

(d) Any revenues received by the provider or its affiliates for the provision of directory or internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing.

(e) Any amounts attributable to the provision of video service to customers at no charge, including the provision of such service to public institutions without charge.

(f) Any tax, fee, or assessment of general applicability imposed on the customer or the transaction by a federal, state, or local government or any other governmental entity, collected by the provider, and required to be remitted to the taxing entity, including sales and use taxes.

(g) Any forgone revenue from the provision of video service at no charge to any person, except that any forgone revenue exchanged for trades, barter, services, or other items of value shall be included in gross revenue.

(h) Sales of capital assets or surplus equipment.

(i) Reimbursement by programmers of marketing costs actually incurred by the provider for the introduction of new programming.

(j) The sale of video service for resale to the extent the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect to the service.

(6) In the case of a video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the video provider's revenue attributable to the other services, capabilities, or applications shall be included in gross revenue unless the provider can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.

(7) Revenue of an affiliate shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate has the effect of evading the payment of franchise fees which would otherwise be paid for video service.

(8) In addition to the fee required under subsection (1), a video service provider shall pay to the franchising entity as support for the cost of public, education, and government access facilities and services an annual fee equal to 1 of the following:

(a) If there is an existing franchise on the effective date of this act, the fee paid to the franchising entity by the incumbent video provider with the largest number of cable service subscribers in the franchising entity as determined by the existing franchise agreement.

(b) At the expiration of the existing franchise agreement, the amount required under subdivision (a) not to exceed 2% of gross revenues.

(c) If there is no existing franchise agreement, a percentage of gross revenues as established by the franchising entity not to exceed 2% to be determined by a community need assessment.

(d) An amount agreed to by the franchising entity and the video service provider.

(9) The fee required under subsection (8) shall be applicable to all providers.

(10) The fee due under subsection (8) shall be due on a quarterly basis and paid within 45 days after the close of the quarter. Each payment shall include a statement explaining the basis for the calculation of the fee.

(11) A video service provider is entitled to a credit applied toward the fees due under subsection (1) for all funds allocated to the franchising entity from annual maintenance fees paid by the provider for use of public rights-of-way, minus any property tax credit allowed under section 8 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3108. The credits shall be applied on a monthly pro rata basis beginning in the first month of each calendar year in which the franchising entity receives its allocation of funds. The credit allowed under this subsection shall be calculated by multiplying the number of linear feet occupied by the provider in the public rights-of-way of the franchising entity by the lesser of 5 cents or the amount assessed under the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3101 to 484.3120. A video service provider is not eligible for a credit under this subsection unless the provider has taken all property tax credits allowed under the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3101 to 484.3120.

(12) All determinations and computations made under this section shall be pursuant to generally accepted accounting principles.

(13) The commission within 30 days after the enactment into law of any appropriation to it shall ascertain the amount of the appropriation attributable to the actual costs to the commission in exercising its duties under this act and shall be assessed against each video service provider doing business in this state. Each provider shall pay a portion of the total assessment in the same proportion that its number of subscribers for the preceding calendar year bears to the total number of video service subscribers in the state. The first assessment made under this act shall be based on the commission's estimated number of subscribers for each provider in the year that the appropriation is made. The total assessment under this subsection shall not exceed \$1,000,000.00 annually. This subsection does not apply after December 31, 2009.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3307 Audits; claims for unpaid fees or refunds; identification and collection as separate line item.

Sec. 7.

(1) No more than every 24 months, a franchising entity may perform reasonable audits of the video service provider's calculation of the fees paid under section 6 to the franchising entity during the preceding 24-month period only. All records reasonably necessary for the audits shall be made available by the provider at the location where the records are kept in the ordinary course of business. The franchising entity and the video service provider

shall each be responsible for their respective costs of the audit. Any additional amount due verified by the franchising entity shall be paid by the provider within 30 days of the franchising entity's submission of an invoice for the sum. If the sum exceeds 5% of the total fees which the audit determines should have been paid for the 24-month period, the provider shall pay the franchising entity's reasonable costs of the audit.

(2) Any claims by a franchising entity that fees have not been paid as required under section 6, and any claims for refunds or other corrections to the remittance of the provider, shall be made within 3 years from the date the compensation is remitted.

(3) Any video service provider may identify and collect as a separate line item on the regular monthly bill of each subscriber an amount equal to the percentage established under section 6(1) applied against the amount of the subscriber's monthly bill.

(4) A video service provider may identify and collect as a separate line item on the regular monthly bill of each subscriber an amount equal to the percentage established under section 6(8) applied against the amount of the subscriber's monthly bill.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3308 Installation, construction, and maintenance of video service or communications network within public right-of-way; access; fee; limitation.

Sec. 8.

(1) A franchising entity shall allow a video service provider to install, construct, and maintain a video service or communications network within a public right-of-way and shall provide the provider with open, comparable, nondiscriminatory, and competitively neutral access to the public right-of-way.

(2) A franchising entity may not discriminate against a video service provider to provide video service for any of the following:

- (a) The authorization or placement of a video service or communications network in public rights-of-way.
- (b) Access to a building owned by a governmental entity.
- (c) A municipal utility pole attachment.

(3) A franchising entity may impose on a video service provider a permit fee only to the extent it imposes such a fee on incumbent video providers, and any fee shall not exceed the actual, direct costs incurred by the franchising entity for issuing the relevant permit. A fee under this section shall not be levied if the video service provider already has paid a permit fee of any kind in connection with the same activity that would otherwise be covered by the permit fee under this section or is otherwise authorized by law or contract to place the facilities used by the video service provider in the public rights-of-way or for general revenue purposes.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3309 Denial of service access due to race or income; defense to violation of subsection (1); video service requirements; number of households; report on compliance with subsections (2) and (3); use of alternative technology; waiver or time extension; service outside provider's existing telephone exchange boundaries not required; mandatory build-out or deployment provisions, schedules, or requirements.

Sec. 9.

(1) A video service provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the residents in the local area in which the group resides.

(2) It is a defense to an alleged violation of subsection (1) if the provider has met either of the following conditions:

(a) Within 3 years of the date it began providing video service under this act, at least 25% of households with access to the provider's video service are low-income households.

(b) Within 5 years of the date it began providing video service under this act and from that point forward, at least 30% of the households with access to the provider's video service are low-income households.

(3) If a video service provider is using telecommunication facilities to provide video services and has more than 1,000,000 telecommunication access lines in this state, the provider shall provide access to its video service to a number of households equal to at least 25% of the households in the provider's telecommunication service area in the state within 3 years of the date it began providing video service under this act and to a number not less than 50% of these households within 6 years. A video service provider is not required to meet the 50% requirement in this subsection until 2 years after at least 30% of the households with access to the provider's video service subscribe to the service for 6 consecutive months.

(4) Each provider shall file an annual report with the franchising entity and the commission regarding the progress that has been made toward compliance with subsections (2) and (3).

(5) Except for satellite service, a video service provider may satisfy the requirements of this section through the use of alternative technology that offers service, functionality, and content, which is demonstrably similar to that provided through the provider's video service system and may include a technology that does not require the use of any public right-of-way. The technology utilized to comply with the requirements of this section shall include local public, education, and government channels and messages over the emergency alert system as required under section 4.

(6) A video service provider may apply to the franchising entity, and, in the case of subsection (3), the commission, for a waiver of or for an extension of time to meet the requirements of this section if 1 or more of the following apply:

(a) The inability to obtain access to public and private rights-of-way under reasonable terms and conditions.

(b) Developments or buildings not being subject to competition because of existing exclusive service arrangements.

(c) Developments or buildings being inaccessible using reasonable technical solutions under commercial reasonable terms and conditions.

(d) Natural disasters.

(e) Factors beyond the control of the provider.

(7) The franchising entity or commission may grant the waiver or extension only if the provider has made substantial and continuous effort to meet the requirements of this section. If an extension is granted, the franchising entity or commission shall establish a new compliance deadline. If a waiver is granted, the franchising entity or commission shall specify the requirement or requirements waived.

(8) Notwithstanding any other provision of this act, a video service provider using telephone facilities to provide video service is not obligated to provide such service outside the provider's existing telephone exchange boundaries.

(9) Notwithstanding any other provision of this act, a video service provider shall not be required to comply with, and a franchising entity may not impose or enforce, any mandatory build-out or deployment provisions, schedules, or requirements except as required by this section.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3310 Prohibited conduct; establishment of dispute resolution process; notice to customers; filing of complaint; manner of dispute resolution.

Sec. 10.

(1) A video service provider shall not do in connection with the providing of video services to its subscribers and the commission may enforce compliance with any of the following to the extent that the activities are not covered by section 2(3)(l):

(a) Make a statement or representation, including the omission of material information, regarding the rates, terms, or conditions of providing video service that is false, misleading, or deceptive. As used in this subdivision, "material information" includes, but is not limited to, all applicable fees, taxes, and charges that will be billed to the subscriber, regardless of whether the fees, taxes, or charges are authorized by state or federal law.

(b) Charge a customer for a subscribed service for which the customer did not make an initial affirmative order. Failure to refuse an offered or proposed subscribed service is not an affirmative order for the service.

(c) If a customer has canceled a service, charge the customer for service provided after the effective date the service was canceled.

(d) Cause a probability of confusion or a misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction by making a false, deceptive, or misleading statement or by failing to inform the customer of a material fact, the omission of which is deceptive or misleading.

(e) Represent or imply that the subject of a transaction will be provided promptly, or at a specified time, or within a reasonable time, if the provider knows or has reason to know that it will not be so provided.

(f) Cause coercion and duress as a result of the time and nature of a sales presentation.

(2) Each video service provider shall establish a dispute resolution process for its customers. Each provider shall maintain a local or toll-free telephone number for customer service contact.

(3) Each provider shall notify its customers not less than annually of the dispute resolution process created under this section. Each provider shall include the dispute resolution process on its website.

(4) Before a customer can file a complaint with the commission under subsection (5), the customer shall first attempt to resolve the dispute through the dispute resolution process established by the provider under subsection (2). If the dispute cannot be resolved by the provider's dispute resolution process, the customer may file a complaint with the commission under subsection (5). The provider shall provide the customer with the commission's toll-free customer service number and website address.

(5) A complaint filed under this section involving a dispute between a customer and a provider shall be handled by the commission in the following manner:

(a) An attempt to resolve the dispute shall first be made through an informal resolution process. Upon receiving a complaint, the commission shall forward the complaint to the provider and attempt to informally mediate a resolution. The provider shall have 10 business days to respond and offer a resolution. If the dispute cannot be resolved through the informal process, the customer can file a formal complaint under subdivision (b).

(b) A formal complaint filed under this subdivision shall be in writing and shall state the section or sections of this act that the customer alleges the provider has violated, sufficient facts to support the allegations, and the exact relief sought from the provider. The formal complaint shall comply with the same requirements of a written complaint filed under section 203 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2203. The complaint shall be resolved by 1 of the following:

(i) If the dispute involves an amount of \$5,000.00 or less, the commission shall appoint a mediator within 7 business days of the date the complaint is filed. The mediator shall make recommendations for resolution within 30 days from the date of appointment. Within 10 days of the date of the mediator's recommendations, any named party in the complaint may request a contested case as provided under subparagraph (ii).

(ii) If the dispute involves an amount greater than \$5,000.00, a contested case hearing in the same manner as provided under section 203 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2203.

(6) If the dispute is between a provider and a franchising entity or between 2 or more providers, the dispute will be resolved in the following manner:

(a) An attempt to resolve the dispute shall first be made through an informal resolution process. If a provider or franchising entity believes that a violation of this act or the franchising agreement has occurred, the provider or franchising entity may begin an informal complaint process with the commission. The provider or the franchising entity shall file with the commission a written notice of dispute identifying the nature of the dispute, request an informal dispute resolution, and serve the notice of dispute on the other party. Commission staff will conduct an informal mediation in an attempt to resolve the dispute. If a satisfactory resolution to the dispute is not achieved, any named party in the complaint may file a formal complaint under subdivision (b).

(b) A formal complaint to the commission filed under this subdivision shall be in writing and shall state the section or sections of this act or parts of the franchising agreement that the party alleges have been violated, sufficient facts to support the allegations, the relief requested, and shall further contain all information, testimony, exhibits, or other documents and information within the moving party's possession on which the party intends to rely to support the complaint. For a period of 60 days after the date the complaint is filed, the parties shall attempt alternative means of resolving the complaint. If the parties cannot agree on the alternative means within 10 days after the date the complaint is filed, the commission shall order mediation. Within 60 days from the date mediation is ordered, the mediator shall issue a recommended settlement. Within 7 days after the date the recommended settlement is issued, each party shall file with the commission a written acceptance or rejection of the recommended settlement. If the parties accept the recommendation, then the recommendation shall become the final order in the contested case. If a party rejects or fails to respond within 7 days to the recommended settlement, then the complaint shall proceed to a contested case hearing in the same manner as provided under section 203 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2203. A party that rejects the recommended settlement shall pay the opposing party's actual costs of proceeding to a contested case hearing, including a reasonable, nonexcessive attorney fee, unless the final order of the commission is more favorable to the rejecting party than the recommended settlement. A final order is considered more favorable if it differs by 10% or more from the recommended settlement in favor of the rejecting party. If the recommendation is not accepted, the individual commissioners shall not be informed of the recommended settlement until they have issued their final order.

History: 2006, Act 480, Eff. Jan. 1, 2007 ;-- Am. 2009, Act 4, Imd. Eff. Apr. 2, 2009

484.3311 Confidentiality.

Sec. 11.

(1) Except under the terms of a mandatory protective order, trade secrets and commercial or financial information submitted under this act to the franchising entity or commission are exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) If information is disclosed under a mandatory protective order, then the franchising entity or commission may use the information for the purpose for which it is required, but the information shall remain confidential.

(3) There is a rebuttable presumption that costs studies, customer usage data, marketing studies and plans, and contracts are trade secrets or commercial or financial information protected under subsection (1). The burden of removing the presumption under this subsection is with the party seeking to have the information disclosed.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3312 Administration of act; limitations; report.

Sec. 12.

(1) The commission's authority to administer this act is limited to the powers and duties explicitly provided for under this act, and the commission shall not have the authority to regulate or control a provider under this act as a public utility.

(2) The commission shall file a report with the governor and legislature by February 1 of each year that shall include information on the status of competition for video services in this state and recommendations for any needed legislation. A video service provider shall submit to the commission any information requested by the commission necessary for the preparation of the annual report required under this subsection. The obligation of a video service provider under this subsection is limited to the submission of information generated or gathered in the normal course of business.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3313 Voluntary franchise agreement.

Sec. 13.

This act does not prohibit a local unit of government and a video service provider from entering into a voluntary franchise agreement that includes terms and conditions different than those required under this act, including, but not limited to, a reduction in the franchise fee in return for the video service provider making available to the franchising entity services, equipment, capabilities, or other valuable consideration. This section does not apply unless for each provider servicing the franchise entity it is technically feasible and commercially practicable to comply with similar terms and conditions in the franchise agreement and it is offered to the other provider.

History: 2006, Act 480, Eff. Jan. 1, 2007

484.3314 Violation; remedies and penalties; costs; appeal and review.

Sec. 14.

(1) After notice and hearing, if the commission finds that a person has violated this act, the commission shall order remedies and penalties to protect and make whole persons who have suffered damages as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Except as otherwise provided under subdivision (b), order the person to pay a fine for the first offense of not less than \$1,000.00 or more than \$20,000.00. For a second and any subsequent offense, the commission shall order the person to pay a fine of not less than \$2,000.00 or more than \$40,000.00.

(b) If the video service provider has less than 250,000 telecommunication access lines in this state, order the person to pay a fine for the first offense of not less than \$200.00 or more than \$500.00. For a second and any subsequent offense, the commission shall order the person to pay a fine of not less than \$500.00 or more than \$1,000.00.

(c) If the person has received a uniform video service local franchise, revoke the franchise.

(d) Issue cease and desist orders.

(2) Notwithstanding subsection (1), a fine shall not be imposed for a violation of this act if the provider has otherwise fully complied with this act and shows that the violation was an unintentional and bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error. Examples of a bona fide error include clerical, calculation, computer malfunction, programming, or printing errors. An error in legal judgment with respect to a person's obligations under this act is not a bona fide error. The burden of proving that a violation was an unintentional and bona fide error is on the provider.

(3) If the commission finds that a party's complaint or defense filed under this section is frivolous, the commission shall award to the prevailing party costs, including reasonable attorney fees, against the nonprevailing party and their attorney.

(4) Any party of interest shall have the same rights to appeal and review an order or finding of the commission under this act as provided under the Michigan telecommunications act, 1991 PA 179, MCL 484.2101 to 484.2604.

History: 2006, Act 480, Eff. Jan. 1, 2007

***** 484.3315 THIS SECTION DOES NOT APPLY AFTER DECEMBER 31, 2015 *****

484.3315 Costs to commission in exercising duties; assessment of amount against each video service provider; limitation; deduction; credit of payments to special account; applicability of section.

Sec. 15.

(1) Effective January 1, 2010, the commission within 30 days after the enactment into law of any appropriation to it shall ascertain the amount of the appropriation attributable to the actual costs to the commission in exercising its duties under this act and that amount shall be assessed against each video service provider doing business in this state. Each provider shall pay a portion of the total assessment in the same proportion that its number of subscribers for the preceding calendar year bears to the total number of video service subscribers in the state. The total assessment under this section shall not exceed \$1,000,000.00 annually.

(2) For the state fiscal year commencing October 1, 2009 and annually thereafter, there shall be deducted from any amount to be assessed under subsection (1) an amount equal to the difference by which the actual expenditures of the commission attributable to exercising its duties under this act for the previous fiscal year are less than the amount assessed against each video service provider in the previous fiscal year. The deductions shall be made in the same proportion as the original assessment in subsection (1).

(3) All money paid into the state treasury by a video service provider under subsection (1) shall be credited to a special account, to be utilized solely to finance the cost to the commission of exercising its duties under this act.

(4) This section does not apply after December 31, 2015.

History: Add. 2009, Act 191, Imd. Eff. Dec. 22, 2009

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2009-35

484.3331 Transfer of Michigan telecommunications relay service advisory board to department of energy, labor, and economic growth by type III transfer; abolishment of Michigan telecommunications relay service advisory board.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

WHEREAS, abolishing the Michigan Telecommunications Relay Service Advisory Board will contribute to a smaller and more efficient state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Department of Energy, Labor, and Economic Growth" means the principal department of state government created by Section 225 of the Executive Reorganization Act of 1965, 1965 PA 380, MCL 16.325, and renamed by Executive Order 1996-2, MCL 445.2001, by Executive Order 2003-18, MCL 445.2011, and by Executive Order 2008-20.

B. "Michigan Telecommunications Relay Service Advisory Board" means the board created under Section 315 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2315.

C. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

D. "Type III transfer" means that term as defined under Section 3(c) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. TRANSFER OF AUTHORITY

A. The Michigan Telecommunications Relay Service Advisory Board is transferred by Type III transfer to the Department of Energy, Labor, and Economic Growth.

B. The Michigan Telecommunications Relay Service Advisory Board is abolished.

III. IMPLEMENTATION OF TRANSFERS

A. The Director of the Energy, Labor, and Economic Growth shall provide executive direction and supervision for the implementation of all transfers of functions under this Order and shall make internal organizational changes as necessary to complete the transfers under this Order.

B. The functions transferred under this Order shall be administered by the Director of the Department of Energy, Labor, and Economic Growth in such ways as to promote efficient administration.

C. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Advisory Subcommittee on Interior Design for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Department of Energy, Labor, and Economic Growth.

D. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

IV. MISCELLANEOUS

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective December 28, 2009 at 12:01 a.m.

History: 2009, E.R.O. 2009-35, Eff. Dec. 28, 2009