

1 AN ACT concerning local government.

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

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

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

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

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

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

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

7 It is the intent of the General Assembly to:

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

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

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

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

20 Section 10. Definitions. In this Act:

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

23 "Department" means the Department of Revenue.

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

1 amount established under Section 15 of this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

1 that are remitted and timely filed with the Department.

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

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

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

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

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

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

20           (50 ILCS 750/2.24 new)

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

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

14 (50 ILCS 750/2.25 new)

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

21 (50 ILCS 750/2.26 new)

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

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

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

23 Sec. 15.3. Surcharge.

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

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

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

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

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

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

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

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

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

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



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

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

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

1 following form:

2 -----

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

12 -----

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (50 ILCS 751/10)

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

21 Sec. 10. Definitions. In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

14 (50 ILCS 751/17)

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

16 Sec. 17. Wireless carrier surcharge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (50 ILCS 751/80 new)

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

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

16 (220 ILCS 5/13-230)

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

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



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

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

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

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