

AN ACT concerning local government.

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

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

(50 ILCS 751/17)

(Section scheduled to be repealed on July 1, 2015)

Sec. 17. Wireless carrier surcharge.

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

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

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

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

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

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

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

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

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

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

A penalty imposed in accordance with this subsection (e)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 99. Effective date. This Act takes effect upon

Public Act 098-1167

SB3265 Enrolled

LRB098 19701 JLK 54912 b

becoming law.