

HB0999/677073/1

BY: Finance Committee

AMENDMENTS TO HOUSE BILL 999
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, at the top of the page, insert “EMERGENCY BILL”; in line 5, after “area;” insert “requiring a cooperative’s board of directors to hold a certain meeting and certain forums and provide a certain notice and certain information to the cooperative’s members on whether to operate as a member–regulated cooperative; requiring a cooperative’s board of directors to select an independent auditor to control and supervise certain procedures for voting; requiring the independent auditor to certify the results of a certain vote to the Public Service Commission;”; in the same line, strike “Public Service”; in line 7, after “exceptions;” insert “requiring the Commission to expedite the review of a certain waiver;”; and in line 22, after “service;” insert “requiring a member–regulated cooperative to report to certain committees of the General Assembly on the status of the deployment of broadband Internet service to the member–regulated cooperative’s members on or before a certain date each year;”.

On page 2, strike beginning with “authorizing” in line 1 down through “manner;” in line 4; in line 10, after “Assembly;” insert “making this Act an emergency measure;”; in line 16, strike “5–646” and substitute “5–647”; in the same line, strike “5–653” and substitute “5–654”; after line 29, insert:

“BY repealing and reenacting, without amendments,

Article – Corporations and Associations

Section 5–607(a)(12) and (c)

Annotated Code of Maryland

(2014 Replacement Volume and 2019 Supplement)”;

and in line 32, strike “5–643” and substitute “5–644”.

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On page 3, in line 32, strike “5-646” and substitute “5-647”; and in the same line, strike “5-653” and substitute “5-654”.

AMENDMENT NO. 2

On page 5, after line 4, insert:

“5-607.”

(a) A cooperative has the power to:

(12) Construct, maintain, or operate or allow others to construct, maintain, or operate conducting or communications facilities that furnish telecommunications, broadband Internet access, or related services, along, on, under, or across:

(i) Real property, personal property, rights-of-way, and easements owned, held, or otherwise used by the cooperative; and

(ii) Publicly owned lands, roadways, and public ways, with the prior consent of the governing body of the municipal corporation or county in which the facilities are proposed to be constructed and under any reasonable regulations and conditions imposed by the governing body of the municipal corporation or county;

(c) To ensure that electric customers do not subsidize the cost of broadband services, an electric cooperative shall allocate properly all costs incurred under subsection (a)(12) of this section between electricity-related services and broadband services.”;

in lines 11 and 12, strike “**NOT LESS THAN TWO-THIRDS**” and substitute “**A MAJORITY**”; in line 12, after “**MEMBERS**” insert “**VOTING AT A MEETING AT WHICH AT LEAST 15% OF THE MEMBERS VOTE**”; in line 15, after “**(A)**” insert “**(1)**”; in the same line, after “**COOPERATIVE,**” insert “**A COOPERATIVE SHALL:**”

(I) SUBMIT A REQUEST FOR A WAIVER FROM THE APPLICATION OF AFFILIATE REGULATIONS IN ACCORDANCE WITH COMAR 20.40.01.04; OR

(II) CONDUCT”;

strike beginning with “COOPERATIVE” in line 16 down through “COOPERATIVE” in line 17 and substitute “**VOTE OF THE COOPERATIVE’S MEMBERS IN ACCORDANCE WITH THIS SECTION.**”

(2) THE COMMISSION SHALL EXPEDITE THE REVIEW OF A WAIVER REQUESTED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION”;

strike in their entirety lines 18 through 21, inclusive, and substitute:

“(B) A VOTE UNDER THIS SECTION:

(1) MAY BE CALLED BY A COOPERATIVE’S BOARD OF DIRECTORS;
OR

(2) SHALL BE CALLED WITHIN 100 DAYS AFTER RECEIPT BY THE BOARD OF DIRECTORS OF A PETITION SIGNED BY AT LEAST 1,000 COOPERATIVE MEMBERS.

(C) (1) A COOPERATIVE’S BOARD OF DIRECTORS SHALL HOLD A MEETING WITH THE COOPERATIVE’S MEMBERS ON WHETHER TO OPERATE AS A MEMBER-REGULATED COOPERATIVE.

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(2) (I) THE COOPERATIVE'S BOARD OF DIRECTORS SHALL PROVIDE NOTICE OF THE MEETING TO THE MEMBERS OF THE COOPERATIVE.

(II) THE NOTICE SHALL:

1. INCLUDE:

A. THE PURPOSE OF THE MEETING, INCLUDING INFORMATION ON MEMBER-REGULATED COOPERATIVES;

B. DIRECTIONS FOR VOTING ON WHETHER TO OPERATE AS A MEMBER-REGULATED COOPERATIVE;

C. A FORM OR WRITTEN BALLOT FOR THE VOTE;

D. THE TIME, DATE, AND PLACE OF THE MEETING;

AND

E. THE TIME, DATE, AND PLACE OF THE FORUMS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION; AND

2. BE PROVIDED IN WRITING TO THE COOPERATIVE'S MEMBERS AND THE COMMISSION BY MAIL OR BY HAND DELIVERY AT LEAST 40 DAYS BUT NOT MORE THAN 90 DAYS BEFORE THE DATE OF THE MEETING.

(D) (1) A COOPERATIVE'S BOARD OF DIRECTORS SHALL HOLD AT LEAST TWO OPEN FORUMS TO ALLOW THE COOPERATIVE'S MEMBERS TO DISCUSS OR MAKE INQUIRIES CONCERNING OPERATING AS A MEMBER-REGULATED COOPERATIVE.

(2) FORUMS SHALL BE HELD:

(i) ON SEPARATE DATES AT DIFFERENT LOCATIONS WITHIN THE COOPERATIVE'S SERVICE TERRITORY;

(ii) AT TIMES THAT ARE CONVENIENT FOR THE COOPERATIVE'S MEMBERS TO ATTEND; AND

(iii) AT LEAST 10 DAYS AFTER DELIVERY OF THE NOTICE REQUIRED UNDER SUBSECTION (C)(2) OF THIS SECTION BUT NOT LATER THAN 20 DAYS BEFORE THE DATE OF THE MEETING REQUIRED UNDER SUBSECTION (C)(1) OF THIS SECTION.

(3) A COOPERATIVE'S MEMBERS SHALL HAVE:

(i) THE OPPORTUNITY AT EACH FORUM TO MAKE INQUIRIES ABOUT OPERATING AS A MEMBER-REGULATED COOPERATIVE; AND

(ii) A REASONABLE, EQUAL OPPORTUNITY TO PRESENT THE MEMBERS' VIEWS CONCERNING OPERATING AS A MEMBER-REGULATED COOPERATIVE, INCLUDING PRESENTING VIEWS IN OPPOSITION TO OPERATING AS A MEMBER-REGULATED COOPERATIVE.

(E) (1) IF A COOPERATIVE'S BOARD OF DIRECTORS MAILS INFORMATION TO ITS MEMBERS REGARDING OPERATING AS A MEMBER-REGULATED COOPERATIVE THAT IS IN ADDITION TO THE INFORMATION PROVIDED IN THE NOTICE, THE COOPERATIVE'S BOARD OF DIRECTORS SHALL INCLUDE IN THE MAILING ANY MATERIALS PROVIDED IN OPPOSITION TO

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OPERATING AS A MEMBER-REGULATED COOPERATIVE IF THE MATERIALS ARE ACCOMPANIED BY A PETITION SIGNED BY AT LEAST 100 OF THE COOPERATIVE'S MEMBERS.

(2) A COOPERATIVE SHALL PAY FOR MAILING THE MATERIALS IN AN AMOUNT EQUAL TO THE COST OF MAILING THE COOPERATIVE'S NOTICE UNDER SUBSECTION (C) OF THIS SECTION.

(3) IF THE COST OF MAILING THE MATERIALS IS GREATER THAN THE COST OF MAILING THE COOPERATIVE'S NOTICE, THE DIFFERENCE SHALL BE PAID:

(I) PRO RATA BY THE COOPERATIVE'S MEMBERS SUBMITTING MATERIALS IN OPPOSITION; AND

(II) BY AN ADVANCE DEPOSIT IN AN AMOUNT ESTIMATED TO COVER THE EXCESS COSTS.

(F) (1) A COOPERATIVE'S BOARD OF DIRECTORS SHALL SELECT AN INDEPENDENT AUDITOR TO CONTROL AND SUPERVISE THE PROCEDURES FOR VOTING.

(2) EACH OF A COOPERATIVE'S MEMBERS IS ENTITLED TO ONE VOTE ON WHETHER TO OPERATE AS A MEMBER-REGULATED COOPERATIVE, REGARDLESS OF THE METHOD USED TO CAST A VOTE.

(3) A COOPERATIVE'S MEMBER MAY VOTE AT THE MEETING UNDER SUBSECTION (A) OF THIS SECTION BY:

(I) WRITTEN BALLOT;

(II) USE OF A VOTING MACHINE; OR

(III) IF AUTHORIZED BY THE COOPERATIVE'S CHARTER OR BYLAWS, BY ELECTRONIC BALLOT.

(4) IF A COOPERATIVE USES WRITTEN BALLOTS UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE WRITTEN BALLOTS SHALL BE:

(I) INCLUDED WITH THE NOTICE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND

(II) CAST AND COUNTED IF RECEIVED BY THE COOPERATIVE'S BOARD OF DIRECTORS BEFORE THE END OF THE MEETING UNDER SUBSECTION (A) OF THIS SECTION.

(5) (I) ANY PROCEDURES ADOPTED FOR THE USE AND TRANSMISSION OF ELECTRONIC BALLOTS SHALL ENSURE THAT EACH ELECTRONIC BALLOT WAS SENT BY A COOPERATIVE MEMBER WHO IS ENTITLED TO VOTE.

(II) AN ELECTRONIC BALLOT SHALL BE CAST AND COUNTED IF SUBMITTED ELECTRONICALLY BEFORE THE END OF THE MEETING UNDER SUBSECTION (A) OF THIS SECTION.

(G) TO OPERATE AS A MEMBER-REGULATED COOPERATIVE SHALL REQUIRE THE AFFIRMATIVE VOTE OF A MAJORITY OF THE COOPERATIVE'S

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MEMBERS VOTING AT A MEETING AT WHICH AT LEAST 15% OF THE MEMBERS VOTE.

(H) THE INDEPENDENT AUDITOR SELECTED BY THE COOPERATIVE'S BOARD OF DIRECTORS UNDER SUBSECTION (F) OF THIS SECTION SHALL CERTIFY TO THE COMMISSION, IN WRITING, THE RESULTS OF A VOTE UNDER THIS SECTION WITHIN 5 BUSINESS DAYS AFTER THE DATE OF THE VOTE.

5-636.”;

in line 22, strike “PARAGRAPH (2) OF THIS SUBSECTION” and substitute “SUBSECTION (B) OF THIS SECTION”; and in line 23, strike “FILING A DECLARATION UNDER SUBSECTION (B) OF THIS SECTION” and substitute “PROVIDING A CERTIFICATION TO THE COMMISSION UNDER § 5-635(H) OF THIS SUBTITLE”.

On page 5 in lines 22, 25, 27, and 30, and on page 6 in line 1, strike “(C) (1)”, “(I)”, “(II)”, “(2)”, and “(I)”, respectively, and substitute “(A)”, “(1)”, “(2)”, “(B)”, and “(1)”, respectively.

On page 6, in line 2, strike “AND”; in line 3, strike “(II)” and substitute “(2) ESTABLISH A PLAN FOR MAKING BROADBAND INTERNET SERVICE AVAILABLE TO MEMBERS IN A MANNER THAT MAXIMIZES DEPLOYMENT WITH AVAILABLE FINANCIAL RESOURCES;

(3) INCLUDE AN ALLOCATION METHOD IN ACCORDANCE WITH § 5-607(C) OF THIS SUBTITLE TO ENSURE THAT ELECTRIC CUSTOMERS DO NOT SUBSIDIZE THE COST OF BROADBAND INTERNET SERVICE; AND

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in the same line, strike “**§ 5-636(A)(2)**” and substitute “**§ 5-637(A)(2)**”; and in line 5, strike “**5-636.**” and substitute “**5-637.**”.

On page 7, in line 1, strike “**5-637.**” and substitute “**5-638.**”; and in line 25, strike “**5-638.**” and substitute “**5-639.**”.

On page 8, in line 3, strike “**§ 5-639**” and substitute “**§ 5-640**”; and in line 5, strike “**5-639.**” and substitute “**5-640.**”.

On page 9, in line 1, strike “**5-640.**” and substitute “**5-641.**”; in line 9, strike “**5-641.**” and substitute “**5-642.**”; after line 9, insert:

“(A) ON OR BEFORE DECEMBER 1 EACH YEAR, A MEMBER-REGULATED COOPERATIVE SHALL REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE STATUS OF THE DEPLOYMENT OF BROADBAND INTERNET SERVICE TO THE MEMBER-REGULATED COOPERATIVE’S MEMBERS.”;

in lines 10 and 24, strike “**(A)**” and “**(B)**”, respectively, and substitute “**(B)**” and “**(C)**”, respectively; and in lines 26 and 28, in each instance, strike “**(A)(1)**” and substitute “**(B)(1)**”.

On page 10, strike in their entirety lines 3 through 11, inclusive; in line 12, strike “**5-642.**” and substitute “**5-643.**”; in line 15, strike “**SUPERMAJORITY**” and substitute “**MAJORITY**”; and strike beginning with “**MEMBER-REGULATED**” in line 20 down through “**MEMBERS**” in line 21 and substitute “**VOTE TO REVERT TO A COOPERATIVE SHALL BE HELD IN ACCORDANCE WITH § 5-635 OF THIS SUBTITLE**”.

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On page 10 in line 32, and on page 11 in lines 3 and 4, strike “~~5-643.~~”, “~~5-644.~~”, and “~~5-645.~~”, respectively, and substitute “5-644.”, “5-645.”, and “5-646.”, respectively.

On page 11, in line 6, strike “~~§ 5-648~~” and substitute “§ 5-649”; and strike beginning with “shall” in line 15 down through “2020” in line 16, and substitute “is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted”.