

HOUSE BILL 1213

C5, C2, L6
SB 713/19 – FIN

3lr2495

By: **Delegate Wilson**

Introduced and read first time: February 10, 2023

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Wireless Facilities – Permitting and Siting**

3 FOR the purpose of establishing procedures and requirements for the permitting,
4 installation, and regulation of certain wireless facilities in the State; prohibiting a
5 certain local law from generally prohibiting the installation of certain wireless
6 facilities or poles or discriminating among certain providers and services; requiring
7 a wireless provider to promptly repair certain damages, return certain
8 rights-of-way to certain conditions under certain circumstances, notify an authority
9 of certain decisions to remove certain facilities and equipment, and remove certain
10 facilities and equipment from a certain right-of-way under certain circumstances;
11 establishing the Digital Inclusion Fund as a special, nonlapsing fund; establishing a
12 certain surcharge on certain wireless providers; and generally relating to wireless
13 facilities.

14 BY adding to

15 Article – Public Utilities

16 Section 8–701 through 8–719 to be under the new subtitle “Subtitle 7. Wireless
17 Facilities”

18 Annotated Code of Maryland

19 (2020 Replacement Volume and 2022 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article – Public Utilities

22 Section 13–101 and 13–201

23 Annotated Code of Maryland

24 (2020 Replacement Volume and 2022 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

26 That the Laws of Maryland read as follows:

27 **Article – Public Utilities**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SUBTITLE 7. WIRELESS FACILITIES.

8-701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) "ANTENNA" MEANS AN APPARATUS DESIGNED TO EMIT RADIOFREQUENCY RADIATION AND OPERATE FROM A FIXED LOCATION TO PROVIDE WIRELESS SERVICES.

(2) "ANTENNA" INCLUDES MATERIALS USED FOR ARRANGING, SCREENING, AND CAMOUFLAGING ANTENNA EQUIPMENT.

(C) "ANTENNA EQUIPMENT" MEANS EQUIPMENT, SWITCHES, WIRING, CABLING, POWER SOURCES, SHELTERS, OR CABINETS ASSOCIATED WITH AN ANTENNA AND LOCATED AT THE SAME FIXED LOCATION AS THE ANTENNA.

(D) (1) "APPLICABLE STANDARDS" MEANS ENGINEERING AND SAFETY STANDARDS, INCLUDING BUILDING, FIRE, SAFETY, ELECTRICAL, PLUMBING, AND MECHANICAL CODES, ADOPTED BY AN AUTHORITY THAT MAY REGULATE OR OTHERWISE AFFECT THE INSTALLATION, MAINTENANCE, AND OPERATION OF THE FACILITIES AUTHORIZED OR AFFECTED BY THIS SUBTITLE.

(2) "APPLICABLE STANDARDS" INCLUDES:

(I) THE REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION AND THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION; AND

(II) ANY LOCAL STANDARDS OR REGULATIONS GOVERNING THE USE OF RIGHTS-OF-WAY.

(E) (1) "AUTHORITY" MEANS A COUNTY, A MUNICIPAL CORPORATION, THE STATE, OR AN INSTRUMENTALITY OF THE STATE THAT MAY APPROVE THE INSTALLATION OF WIRELESS FACILITIES OR POLES ON PUBLIC RIGHTS-OF-WAY.

(2) "AUTHORITY" DOES NOT INCLUDE A UTILITY OWNED BY A COUNTY OR MUNICIPAL CORPORATION.

(F) "COLLOCATE" MEANS TO INSTALL OR MOUNT A WIRELESS FACILITY ON A POLE.

1 **(G) (1) “MAKE-READY WORK” MEANS WORK THAT AN AUTHORITY**
2 **REASONABLY DETERMINES TO BE REQUIRED TO ACCOMMODATE A WIRELESS**
3 **PROVIDER’S INSTALLATION UNDER THIS SUBTITLE AND TO COMPLY WITH ALL**
4 **APPLICABLE STANDARDS.**

5 **(2) “MAKE-READY WORK” INCLUDES:**

6 **(I) REPAIR, REARRANGEMENT, REPLACEMENT, AND**
7 **CONSTRUCTION OF A POLE;**

8 **(II) INSPECTIONS;**

9 **(III) ENGINEERING WORK AND CERTIFICATION;**

10 **(IV) PERMITTING WORK;**

11 **(V) TREE TRIMMING OTHER THAN TRIMMING PERFORMED FOR**
12 **NORMAL MAINTENANCE PURPOSES;**

13 **(VI) SITE PREPARATION; AND**

14 **(VII) ELECTRICAL POWER CONFIGURATION.**

15 **(3) “MAKE-READY WORK” DOES NOT INCLUDE A WIRELESS**
16 **PROVIDER’S ROUTINE MAINTENANCE.**

17 **(H) “PERSON” DOES NOT INCLUDE AN AUTHORITY.**

18 **(I) “POLE” MEANS A POLE OR SIMILAR STRUCTURE THAT IS USED OR IS**
19 **CAPABLE OF BEING USED, AS AN AUTHORITY DETERMINES, WHOLLY OR PARTLY FOR**
20 **THE COLLOCATION OF A WIRELESS FACILITY.**

21 **(J) (1) “PRECONSTRUCTION SURVEY” MEANS ALL WORK OR OPERATIONS**
22 **REQUIRED BY APPLICABLE STANDARDS OR AN AUTHORITY TO DETERMINE THE**
23 **MAKE-READY WORK NECESSARY TO ACCOMMODATE A WIRELESS PROVIDER’S**
24 **FACILITIES.**

25 **(2) “PRECONSTRUCTION SURVEY” INCLUDES FIELD INSPECTION AND**
26 **ADMINISTRATIVE PROCESSING.**

27 **(K) “SURETY BOND” MEANS A PERFORMANCE BOND ISSUED BY A**
28 **COMMERCIAL SURETY THAT GUARANTEES THERE WILL BE FUNDS AVAILABLE:**

1 (1) FOR THE REMOVAL OF ABANDONED OR IMPROPERLY MAINTAINED
2 WIRELESS FACILITIES OR POLES; OR

3 (2) TO RECOUP RATES OR FEES PAYABLE TO AN AUTHORITY.

4 (L) (1) “WIRELESS FACILITY” MEANS EQUIPMENT AT A FIXED LOCATION
5 THAT ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A
6 COMMUNICATIONS NETWORK.

7 (2) “WIRELESS FACILITY” INCLUDES:

8 (I) EQUIPMENT ASSOCIATED WITH WIRELESS
9 COMMUNICATIONS; AND

10 (II) ANY RADIO TRANSCEIVER, ANTENNA, COAXIAL OR
11 FIBER–OPTIC CABLE, REGULAR OR BACKUP POWER SUPPLY, AND COMPARABLE
12 EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION.

13 (3) “WIRELESS FACILITY” DOES NOT INCLUDE:

14 (I) THE STRUCTURE OR IMPROVEMENTS ON, UNDER, OR
15 WITHIN WHICH THE EQUIPMENT IS LOCATED;

16 (II) A POLE; OR

17 (III) COAXIAL OR FIBER–OPTIC CABLE THAT IS:

18 1. LOCATED BETWEEN WIRELESS STRUCTURES OR
19 POLES; OR

20 2. NOT OTHERWISE IMMEDIATELY ADJACENT TO OR
21 DIRECTLY ASSOCIATED WITH A PARTICULAR ANTENNA.

22 (M) “WIRELESS PROVIDER” MEANS A PERSON THAT INSTALLS OR HAS
23 INSTALLED ON THE PERSON’S BEHALF WIRELESS FACILITIES OR POLES TO PROVIDE
24 WIRELESS SERVICES.

25 (N) “WIRELESS SERVICES” MEANS ANY SERVICES PROVIDED TO THE
26 PUBLIC USING LICENSED OR UNLICENSED SPECTRUM, WHETHER AT A FIXED
27 LOCATION OR USING MOBILE EQUIPMENT.

1 **EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS OF THIS**
2 **SUBTITLE ARE NOT SUBJECT TO THE JURISDICTION OF THE COMMISSION.**

3 **8-703.**

4 **(A) A WIRELESS PROVIDER MAY INSTALL AND MAINTAIN WIRELESS**
5 **FACILITIES AND POLES IN A PUBLIC RIGHT-OF-WAY IN ACCORDANCE WITH ANY**
6 **APPLICABLE LOCAL LAW OR REGULATIONS, FRANCHISES, PERMITS, LICENSES,**
7 **AGREEMENTS, OR OTHER APPROVALS REQUIRED BY AN AUTHORITY.**

8 **(B) THE USE OF A PUBLIC RIGHT-OF-WAY OR THE ATTACHMENT OF**
9 **WIRELESS FACILITIES TO PUBLIC ASSETS BY A WIRELESS PROVIDER MAY NOT**
10 **OBSTRUCT OR HINDER:**

11 **(1) THE TRAVEL OR PUBLIC SAFETY ON THE PUBLIC RIGHT-OF-WAY;**
12 **OR**

13 **(2) THE LEGAL USE OF THE PUBLIC RIGHT-OF-WAY OR PUBLIC**
14 **ASSETS BY OTHERS.**

15 **(C) THE APPLICABLE LOCAL LAW AND REGULATION PROVIDED IN**
16 **SUBSECTION (A) OF THIS SECTION:**

17 **(1) MAY NOT GENERALLY PROHIBIT THE INSTALLATION OF ALL**
18 **WIRELESS FACILITIES OR POLES IN THE PUBLIC RIGHT-OF-WAY OR ON PRIVATE**
19 **PROPERTY; AND**

20 **(2) MAY NOT DISCRIMINATE AMONG WIRELESS PROVIDERS OF**
21 **FUNCTIONALLY EQUIVALENT WIRELESS SERVICES.**

22 **8-704.**

23 **(A) AN AUTHORITY MAY ADOPT DESIGN AND AESTHETIC REQUIREMENTS OR**
24 **STANDARDS THAT GOVERN THE INSTALLATION OF WIRELESS FACILITIES AND**
25 **POLES.**

26 **(B) THE REQUIREMENTS OR STANDARDS MAY INCLUDE:**

27 **(1) THE APPEARANCE OF WIRELESS FACILITIES, INCLUDING THOSE**
28 **RELATING TO MATERIALS USED FOR ARRANGING, SCREENING, LANDSCAPING, AND**
29 **CAMOUFLAGING;**

1 **(2) THE LOCATION OF WIRELESS FACILITIES, INCLUDING SPACING**
2 **REQUIREMENTS BETWEEN WIRELESS FACILITIES;**

3 **(3) THE HEIGHT OF WIRELESS FACILITIES;**

4 **(4) THE DESIGN AND APPEARANCE OF POLES OWNED BY A WIRELESS**
5 **PROVIDER;**

6 **(5) THE LOCATION OF POLES, INCLUDING SPACING REQUIREMENTS**
7 **BETWEEN POLES;**

8 **(6) THE HEIGHT OF POLES;**

9 **(7) THE UNDERGROUNDING OF WIRELESS FACILITIES; AND**

10 **(8) ANY OTHER DESIGN OR AESTHETIC REQUIREMENT THAT SEEKS**
11 **TO PRESERVE THE VISUAL CHARACTER OF A NEIGHBORHOOD THAT MAY BE**
12 **AFFECTED BY THE INSTALLATION OF A WIRELESS FACILITY OR POLE.**

13 **(C) THE DESIGN AND AESTHETIC REQUIREMENTS OR STANDARDS OF AN**
14 **AUTHORITY MAY NOT HAVE THE EFFECT OF PROHIBITING ANY WIRELESS**
15 **PROVIDER'S WIRELESS SERVICE.**

16 **(D) ANY ADOPTED DESIGN AND AESTHETIC REQUIREMENTS OR STANDARDS**
17 **SHALL BE PUBLISHED IN ADVANCE OF THEIR EFFECTIVE DATE.**

18 **8-705.**

19 **(A) A WIRELESS PROVIDER SHALL BE REQUIRED TO OBTAIN ANY**
20 **APPROVALS, INCLUDING FRANCHISES, PERMITS, LICENSES, LEASES, AND**
21 **AGREEMENTS, THAT MAY BE REQUIRED BY AN AUTHORITY BEFORE:**

22 **(1) THE COLLOCATION OF A WIRELESS FACILITY;**

23 **(2) THE ATTACHMENT OF A WIRELESS FACILITY TO A POLE OWNED BY**
24 **AN AUTHORITY;**

25 **(3) THE INSTALLATION OF A POLE; OR**

26 **(4) THE MODIFICATION OF A WIRELESS FACILITY OR A POLE.**

27 **(B) THE APPLICATIONS AND DOCUMENTS THAT AN AUTHORITY MAY**
28 **REQUIRE MAY INCLUDE:**

1 (1) DETAILED PLANS DESCRIBING THE COLLOCATION,
2 MODIFICATION, OR ATTACHMENT, INCLUDING ANY CERTIFICATIONS THAT MAY BE
3 REQUIRED;

4 (2) A PRECONSTRUCTION SURVEY;

5 (3) A DESCRIPTION OF ANY NECESSARY MAKE-READY WORK;

6 (4) A PROPOSED SCHEDULE FOR COMPLETION, CERTIFIED BY A
7 LICENSED PROFESSIONAL ENGINEER; AND

8 (5) ANY OTHER INFORMATION REQUIRED BY AN AUTHORITY THAT
9 WILL ALLOW THE AUTHORITY TO PROPERLY EVALUATE:

10 (I) THE SAFETY OF THE INSTALLATION, MODIFICATION, OR
11 ATTACHMENT;

12 (II) THE EFFECT, IF ANY, ON THE PUBLIC RIGHT-OF-WAY; AND

13 (III) THE COMPATIBILITY OF THE INSTALLATION WITH THE
14 NEIGHBORHOOD WHERE THE INSTALLATION IS TO BE LOCATED.

15 (C) AN AUTHORITY MAY ALLOW A WIRELESS PROVIDER TO FILE A
16 CONSOLIDATED APPLICATION FOR ALL WIRELESS FACILITIES TO BE COLLOCATED
17 WITHIN THE JURISDICTION CONTROLLED BY THE AUTHORITY UNDER RULES AND
18 GUIDELINES ESTABLISHED BY THE AUTHORITY.

19 **8-706.**

20 (A) AS PART OF THE APPLICATION PROCESS, AN AUTHORITY MAY REQUIRE
21 A WIRELESS FACILITY TO BE FULLY OPERATIONAL WITHIN 120 DAYS AFTER THE
22 DATE THE LAST OR FINAL PERMIT IS ISSUED UNLESS THE AUTHORITY AND THE
23 APPLICANT AGREE TO EXTEND THE PERIOD.

24 (B) THE FAILURE OF A WIRELESS FACILITY TO OPERATE IN THE TIME
25 ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL ALLOW AN
26 AUTHORITY TO:

27 (1) CANCEL THE AUTHORITY'S APPROVAL OF THE WIRELESS
28 FACILITY; AND

29 (2) CAUSE THE REMOVAL OF THE WIRELESS FACILITY BY THE

1 WIRELESS PROVIDER AT THE WIRELESS PROVIDER'S SOLE EXPENSE AND IN A TIME
2 THE AUTHORITY SPECIFIES.

3 **8-707.**

4 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN
5 APPLICATION TO INSTALL A WIRELESS FACILITY SHALL BE APPROVED OR
6 DISAPPROVED BY AN AUTHORITY WITHIN THE TIME FRAME ESTABLISHED IN
7 FEDERAL LAW OR REGULATION.

8 (B) IN THE ABSENCE OF FEDERAL LAW OR REGULATION, AN APPLICATION
9 THAT IS DEEMED COMPLETE BY AN AUTHORITY SHALL BE APPROVED OR
10 DISAPPROVED WITHIN 180 DAYS AFTER THE RECEIPT OF THE COMPLETE
11 APPLICATION.

12 **8-708.**

13 IF AN AUTHORITY FAILS TO ACT ON A COMPLETE APPLICATION AS PROVIDED
14 IN § 8-707 OF THIS SUBTITLE, THE APPLICANT MAY FILE AN ACTION ALLEGING A
15 VIOLATION OF THIS SUBTITLE IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH
16 THE AUTHORITY IS LOCATED AS PROVIDED IN § 8-718 OF THIS SUBTITLE.

17 **8-709.**

18 (A) AN AUTHORITY MAY ELECT TO PROVIDE PUBLIC NOTICE OF AN
19 APPLICATION AND HOLD A PUBLIC HEARING BEFORE THE APPROVAL OF AN
20 APPLICATION.

21 (B) IF AN AUTHORITY ELECTS TO HOLD A PUBLIC HEARING ON AN
22 APPLICATION, THE APPLICANT SHALL BE REPRESENTED AT THE PUBLIC HEARING
23 AND BE AVAILABLE TO ANSWER INQUIRIES ABOUT THE APPLICATION.

24 (C) IF AN AUTHORITY RECEIVES WRITTEN INQUIRIES ABOUT AN
25 APPLICATION, IT MAY ELECT TO FORWARD THE WRITTEN INQUIRIES TO THE
26 APPLICANT FOR A RESPONSE, AND THE APPLICANT MUST RESPOND IN A TIMELY
27 MANNER.

28 (D) IF THE APPLICANT AGREES, THE TIME FOR APPROVING OR DENYING AN
29 APPLICATION CAN BE EXTENDED AN ADDITIONAL 10 BUSINESS DAYS FOLLOWING A
30 PUBLIC HEARING.

31 **8-710.**

1 IF AN AUTHORITY DENIES A PERMIT, THE AUTHORITY SHALL NOTIFY THE
2 APPLICANT IN WRITING OF THE BASIS FOR THE DENIAL, INCLUDING ANY
3 DOCUMENTATION REGARDING THE DENIAL.

4 8-711.

5 (A) AN AUTHORITY MAY PROVIDE A WIRELESS PROVIDER THE OPTION OF
6 EITHER HAVING:

7 (1) THE WIRELESS PROVIDER PERFORM ANY NECESSARY
8 MAKE-READY WORK THROUGH THE USE OF QUALIFIED CONTRACTORS AUTHORIZED
9 BY THE AUTHORITY; OR

10 (2) THE AUTHORITY PERFORM ANY NECESSARY MAKE-READY WORK
11 AT THE SOLE COST OF THE WIRELESS PROVIDER.

12 (B) ON COMPLETION OF THE MAKE-READY WORK PERFORMED BY AN
13 AUTHORITY AT THE REQUEST OF A WIRELESS PROVIDER, THE WIRELESS PROVIDER
14 SHALL REIMBURSE THE AUTHORITY FOR THE AUTHORITY'S ACTUAL AND
15 DOCUMENTED COST OF THE MAKE-READY WORK.

16 8-712.

17 A WIRELESS PROVIDER SHALL BE REQUIRED TO PROMPTLY:

18 (1) REPAIR ANY DAMAGE TO THE PUBLIC RIGHT-OF-WAY OR ANY
19 DAMAGES TO FACILITIES IN THE RIGHT-OF-WAY DIRECTLY CAUSED BY THE
20 ACTIVITIES OF THE WIRELESS PROVIDER; AND

21 (2) RETURN THE RIGHT-OF-WAY TO THE RIGHT-OF-WAY'S
22 CONDITION BEFORE THE DAMAGES CAUSED BY THE WIRELESS PROVIDER.

23 8-713.

24 (A) A WIRELESS PROVIDER SHALL NOTIFY AN AUTHORITY WITHIN 30 DAYS
25 AFTER A DECISION TO REMOVE FROM SERVICE A WIRELESS FACILITY OR A POLE
26 LOCATED ON A PUBLIC RIGHT-OF-WAY.

27 (B) A WIRELESS PROVIDER SHALL REMOVE A WIRELESS FACILITY OR A
28 POLE THAT IS NO LONGER NEEDED FOR SERVICE AND LOCATED ON A PUBLIC
29 RIGHT-OF-WAY AT THE SOLE COST AND EXPENSE OF THE WIRELESS PROVIDER.

30 (C) IF AN AUTHORITY CONCLUDES THAT A WIRELESS FACILITY OR A POLE

1 HAS BEEN ABANDONED IN PLACE, THE AUTHORITY MAY REMOVE THE WIRELESS
2 FACILITY OR POLE AND CHARGE THE WIRELESS PROVIDER FOR THE ACTUAL AND
3 DOCUMENTED COST INCURRED BY THE AUTHORITY FOR REMOVAL.

4 (D) UNTIL A WIRELESS FACILITY OR A POLE THAT IS LOCATED ON A PUBLIC
5 RIGHT-OF-WAY IS REMOVED FROM THE PUBLIC RIGHT-OF-WAY, A WIRELESS
6 PROVIDER SHALL PAY ALL FEES AND CHARGES DUE TO AN AUTHORITY, REGARDLESS
7 OF WHETHER A WIRELESS FACILITY IS OPERATIONAL.

8 8-714.

9 (A) AN AUTHORITY MAY CHARGE A WIRELESS PROVIDER:

10 (1) FOR THE COSTS OF PROCESSING APPLICATIONS AND PERMITS;

11 (2) FOR THE ATTACHMENT OR USE OF A POLE OWNED BY THE
12 AUTHORITY;

13 (3) FOR THE PRIVILEGE OF USING A PUBLIC RIGHT-OF-WAY
14 (FRANCHISE); AND

15 (4) FOR THE COST OF RELOCATING WIRELESS FACILITIES OR POLES
16 WHEN RELOCATION IS REQUIRED BY THE ALTERATION OF A PUBLIC RIGHT-OF-WAY
17 OR ITS APPURTENANCE.

18 (B) THE ATTACHMENT OR USE CHARGE UNDER SUBSECTION (A)(2) OF THIS
19 SECTION MAY NOT EXCEED THE GREATER OF:

20 (1) \$2,500; OR

21 (2) 2% OF THE GROSS REVENUE REALIZED BY A WIRELESS PROVIDER
22 FROM THE USE OF THE POLE.

23 8-715.

24 (A) A WIRELESS PROVIDER SHALL INDEMNIFY AND HOLD HARMLESS AN
25 AUTHORITY AND ITS OFFICERS AND EMPLOYEES AGAINST ANY LOSS, DAMAGE, OR
26 LIABILITY RESULTING FROM THE WIRELESS FACILITY OR POLE.

27 (B) DURING THE PERIOD IN WHICH THE FACILITIES OF A WIRELESS
28 PROVIDER ARE LOCATED ON OR ATTACHED TO AN AUTHORITY'S ASSETS OR
29 RIGHTS-OF-WAY, THE AUTHORITY MAY REQUIRE A WIRELESS PROVIDER TO:

1 **(1) CARRY, AT THE WIRELESS PROVIDER'S SOLE COST AND EXPENSE,**
2 **THE FOLLOWING TYPES OF THIRD-PARTY INSURANCE:**

3 **(I) PROPERTY INSURANCE FOR THE REPLACEMENT COST OF**
4 **ALL WIRELESS FACILITIES AND POLES AGAINST ALL RISKS;**

5 **(II) WORKERS' COMPENSATION INSURANCE, AS REQUIRED BY**
6 **LAW;**

7 **(III) COMMERCIAL GENERAL LIABILITY INSURANCE OF AT LEAST**
8 **\$2,000,000 PER CLAIM, WITH RESPECT TO THE WIRELESS PROVIDER'S ACTIVITIES**
9 **IN, ON, OR AROUND THE AUTHORITY IMPROVEMENTS OR RIGHTS-OF-WAY,**
10 **INCLUDING COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE; AND**

11 **(IV) ENVIRONMENTAL INSURANCE;**

12 **(2) INCLUDE THE AUTHORITY AS AN ADDITIONAL INSURED ON THE**
13 **COMMERCIAL GENERAL LIABILITY POLICY AND PROVIDE CERTIFICATION AND**
14 **DOCUMENTATION OF INCLUSION OF THE AUTHORITY IN A COMMERCIAL GENERAL**
15 **LIABILITY POLICY AS REASONABLY REQUIRED BY THE AUTHORITY; AND**

16 **(3) PROVIDE THAT AN AUTHORITY AND ITS EMPLOYEES, OFFICERS,**
17 **AND OFFICIALS ARE IMMUNE FROM LIABILITY FOR ANY CLAIM, INCLUDING A TORT**
18 **CLAIM, ARISING FROM THE INSTALLATION OR OPERATION OF WIRELESS FACILITIES**
19 **AND WIRELESS SUPPORT STRUCTURES.**

20 **8-716.**

21 **(A) AN AUTHORITY MAY ADOPT SURETY BONDING REQUIREMENTS FOR**
22 **WIRELESS PROVIDERS, WHICH MAY INCLUDE PROVISIONS TO TERMINATE THE**
23 **RIGHT TO OCCUPY A PUBLIC RIGHT-OF-WAY FOR FAILURE TO MEET THE SURETY**
24 **BONDING REQUIREMENTS.**

25 **(B) THE PURPOSE OF A SURETY BOND REQUIRED UNDER SUBSECTION (A)**
26 **OF THIS SECTION SHALL BE TO:**

27 **(1) PROVIDE FOR THE REMOVAL OF ABANDONED OR IMPROPERLY**
28 **MAINTAINED WIRELESS FACILITIES OR POLES, INCLUDING THOSE THAT AN**
29 **AUTHORITY DETERMINES NEED TO BE REMOVED TO PROTECT PUBLIC HEALTH,**
30 **SAFETY, OR WELFARE AND RESTORE THE RIGHT-OF-WAY; AND**

31 **(2) RECOUP RATES OR FEES THAT HAVE NOT BEEN PAID BY A**
32 **WIRELESS PROVIDER, AS LONG AS THE AUTHORITY HAS GIVEN REASONABLE NOTICE**

1 TO THE WIRELESS PROVIDER AND THE OPPORTUNITY TO PAY THE RATES OR FEES
2 OUTSTANDING.

3 8-717.

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (2) "FUND" MEANS THE DIGITAL INCLUSION FUND.

7 (3) "SECRETARY" MEANS THE SECRETARY OF HOUSING AND
8 COMMUNITY DEVELOPMENT.

9 (B) THERE IS A DIGITAL INCLUSION FUND IN THE DEPARTMENT OF
10 HOUSING AND COMMUNITY DEVELOPMENT.

11 (C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO AUTHORITIES
12 FOR EXPANDING THE DEPLOYMENT OF WIRELESS FACILITIES AND POLES IN
13 GEOGRAPHICAL AREAS OF THE STATE THAT ARE UNDERSERVED BY WIRELESS
14 PROVIDERS.

15 (D) THE SECRETARY SHALL ADMINISTER THE FUND.

16 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
17 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

18 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
19 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

20 (F) THE FUND CONSISTS OF:

21 (1) REVENUES FROM THE SURCHARGE ESTABLISHED UNDER
22 SUBSECTION (J) OF THIS SECTION;

23 (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND; AND

24 (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
25 THE BENEFIT OF THE FUND.

26 (G) THE FUND MAY BE USED ONLY FOR PROVIDING FINANCIAL ASSISTANCE
27 IN THE FORM OF GRANTS AND LOANS TO AUTHORITIES TO FUND THE INSTALLATION
28 OF WIRELESS FACILITIES AND POLES IN UNDERSERVED AREAS OF THE STATE.

1 **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**
2 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

3 **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**
4 **THE GENERAL FUND OF THE STATE.**

5 **(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**
6 **WITH THE STATE BUDGET.**

7 **(J) (1) THERE IS A SURCHARGE LEVIED AND COLLECTED FROM**
8 **WIRELESS PROVIDERS THAT INSTALL WIRELESS FACILITIES AND POLES UNDER THIS**
9 **SUBTITLE.**

10 **(2) THE AMOUNT OF THE SURCHARGE IS 1% OF THE GROSS REVENUE**
11 **REALIZED BY A WIRELESS PROVIDER FROM THE SALE OF WIRELESS SERVICES IN**
12 **THE STATE.**

13 **(3) ALL REVENUES FROM THE SURCHARGE SHALL BE DEPOSITED IN**
14 **THE FUND.**

15 **(4) THE COMPTROLLER:**

16 **(I) SHALL ADMINISTER THE SURCHARGE; AND**

17 **(II) MAY ADOPT REGULATIONS APPROPRIATE FOR THE**
18 **COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF THE SURCHARGE.**

19 **(5) EXCEPT TO THE EXTENT THEY ARE INCONSISTENT WITH THIS**
20 **SECTION, THE PROVISIONS OF TITLE 13 OF THE TAX – GENERAL ARTICLE**
21 **APPLICABLE TO THE SALES AND USE TAX SHALL GOVERN THE ADMINISTRATION,**
22 **COLLECTION, AND ENFORCEMENT OF THE SURCHARGE PROVIDED UNDER THIS**
23 **SUBSECTION.**

24 **(K) (1) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT**
25 **THIS SECTION.**

26 **(2) THE REGULATIONS SHALL INCLUDE:**

27 **(I) PROCEDURES FOR AUTHORITIES TO APPLY FOR FINANCIAL**
28 **ASSISTANCE FROM THE FUND; AND**

29 **(II) PRIORITIES FOR ALLOCATING, SELECTING, AND**
30 **DISTRIBUTING FINANCIAL ASSISTANCE FROM THE FUND TO AUTHORITIES IN AREAS**

1 **OF THE STATE UNDERSERVED BY WIRELESS FACILITIES AND WIRELESS SERVICES.**

2 **8-718.**

3 **(A) THE CIRCUIT COURT FOR THE COUNTY IN WHICH IS LOCATED THE**
4 **AUTHORITY THAT APPROVED THE APPLICATION FOR THE WIRELESS FACILITY AT**
5 **ISSUE SHALL HAVE JURISDICTION OVER ANY DISPUTE ARISING UNDER THIS**
6 **SUBTITLE.**

7 **(B) THE CIRCUIT COURT SHALL ADJUDICATE A CASE ARISING FROM A**
8 **DISPUTE UNDER THIS SUBTITLE WITHIN 180 DAYS AFTER THE COMPLAINT OR**
9 **PETITION IS FILED.**

10 **(C) A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL**
11 **JUDGMENT IN ACCORDANCE WITH THE MARYLAND RULES.**

12 **8-719.**

13 **IF THERE IS AN INCONSISTENCY BETWEEN THIS SUBTITLE AND THE**
14 **PROVISIONS OF ANY LOCAL LAW OR AGREEMENT OF AN AUTHORITY IN EFFECT**
15 **BEFORE JANUARY 1, 2024, AND AS THE LOCAL LAW OR AGREEMENT MAY BE**
16 **AMENDED FROM TIME TO TIME, THE PROVISIONS OF THE LOCAL LAW OR**
17 **AGREEMENT SHALL PREVAIL OVER THIS SUBTITLE TO THE EXTENT OF THE**
18 **INCONSISTENCY.**

19 13-101.

20 (a) This section does not apply to a violation of the following provisions of this
21 article:

22 (1) Title 5, Subtitle 4;

23 (2) Title 7, Subtitle 1;

24 (3) Title 8, Subtitles 1 [and], 3, AND 7; and

25 (4) Title 9, Subtitle 3.

26 (b) A person may not fail, neglect, or refuse to comply with any provision of this
27 division or any effective and outstanding direction, ruling, order, rule, regulation, or
28 decision of the Commission.

29 (c) An individual who knowingly violates or knowingly aids or abets a public
30 service company in the violation of subsection (b) of this section or any provision of this
31 division:

1 (1) is guilty of a misdemeanor; and

2 (2) unless a different punishment is specifically provided by law, on
3 conviction is subject to a fine not exceeding \$1,000 for a first offense and not exceeding
4 \$5,000 for each additional or subsequent offense.

5 13–201.

6 (a) This section does not apply to a violation of the following provisions of this
7 article:

8 (1) Title 5, Subtitle 4;

9 (2) Title 7, Subtitle 1;

10 (3) § 7–213 as it applies to electric cooperatives;

11 (4) Title 8, Subtitles 1 [and], 3, AND 7;

12 (5) Title 9, Subtitle 3; and

13 (6) Title 8, Subtitle 4.

14 (b) (1) Except as provided in paragraph (2) of this subsection, the Commission
15 may impose a civil penalty not exceeding \$25,000 against a person who violates a provision
16 of this division, or an effective and outstanding direction, ruling, order, rule, or regulation
17 of the Commission.

18 (2) The civil penalty that the Commission may impose on a common carrier
19 for each violation may not exceed \$2,500.

20 (c) (1) A civil penalty may be imposed in addition to any other penalty
21 authorized by this division.

22 (2) Each violation is a separate offense.

23 (3) Each day or part of a day the violation continues is a separate offense.

24 (d) The Commission shall determine the amount of any civil penalty after
25 considering:

26 (1) the number of previous violations of any provision of this article;

27 (2) the gravity of the current violation;

28 (3) the good faith efforts of the violator in attempting to achieve compliance

1 after notification of the violation; and

2 (4) any other matter that the Commission considers appropriate and
3 relevant.

4 (e) (1) Except as provided in paragraphs (2) and (3) of this subsection, a civil
5 penalty collected under this section shall be paid into the Resiliency Hub Grant Program
6 Fund established under § 9–2011 of the State Government Article.

7 (2) A civil penalty assessed for a violation of a service quality and reliability
8 standard under § 7–213 of this article shall be paid into the Electric Reliability Remediation
9 Fund under § 7–213(j) of this article.

10 (3) A civil penalty assessed for a violation of § 7–505(b)(7), § 7–507, §
11 7–603, § 7–604, or § 7–606 of this article, or a rule, an order, or a regulation adopted under
12 any of those sections, shall be paid into the Retail Choice Customer Education and
13 Protection Fund under § 7–310 of this article.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 January 1, 2024.