



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1500

Introduced 2/22/2007, by Rep. James D. Brosnahan

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the Cable and Video Competition Law of 2007 in the Public Utilities Act. Provides that a person or entity seeking to provide cable service or video service must file an application with and obtain a State-issued authorization from the Illinois Commerce Commission. Provides that the holder of a State-issued authorization must: (1) comply with rules concerning customer service and privacy protection; (2) designate a sufficient amount of capacity on its network to provide for the same number of public, education, and government access channels that are in actual use; (3) comply with provisions concerning the emergency alert system; and (4) comply with provisions concerning applicable fees payable to and audits by local units of government. Contains provisions concerning the local unit of government's authority over the holder of a State-issued authorization. Specifies the requirements for a holder of a State-issued authorization to provide video services. Contains provisions concerning the access to property and payment for access by the holder of a State-issued authorization. Provides that the Law shall be enforced only by a court of competent jurisdiction. Preempts home rule. Amends other Acts to provide that they are subject to the provisions added to the Public Utilities Act. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB095 09362 MJR 31669 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Public Utilities Act is amended by adding  
5 Article XXI and Sections 21-100, 21-101, 21-201, 21-301,  
6 21-401, 21-501, 21-601, 21-701, 21-801, 21-901, 21-1001,  
7 21-1101, 21-1201, 21-1301, and 21-1401 as follows:

8 (220 ILCS 5/Art. XXI heading new)

9 ARTICLE XXI. CABLE AND VIDEO COMPETITION

10 (220 ILCS 5/21-100 new)

11 Sec. 21-100. Short title. This Article may be cited as the  
12 Cable and Video Competition Law of 2007.

13 (220 ILCS 5/21-101 new)

14 Sec. 21-101. Findings. With respect to cable and video  
15 competition, the General Assembly finds that:

16 (a) The economy in the State of Illinois would be enhanced  
17 by investment in new communications and video services  
18 infrastructure, including broadband facilities, fiber optic,  
19 and Internet protocol technologies.

20 (b) Cable services and video services bring important daily  
21 benefits to Illinois consumers by providing news, education,

1 and entertainment.

2 (c) Competitive video service providers are capable of  
3 providing new video programming services and competition to  
4 Illinois consumers.

5 (d) There has been only minimal competitive entry into the  
6 facilities-based video programming market since current  
7 franchising requirements in this State were enacted.

8 (e) The local authorization process and issues regarding  
9 its applicability act as a barrier to entry to many new  
10 facilities-based entrants because time to market and  
11 reasonable cost of entry are critical for new entrants seeking  
12 to compete with the cable incumbents.

13 (f) The provision of competitive cable service and video  
14 service is a matter of statewide concern that extends beyond  
15 the boundaries of individual local units of government.

16 (g) The State authorization process and uniform standards  
17 and procedures in this Article are intended to enable rapid and  
18 widespread entry by competitive providers bringing to Illinois  
19 consumers the benefits of video competition and bringing to  
20 this State and its local units of government the benefits of  
21 new infrastructure investment, job growth, and innovation in  
22 broadband and Internet protocol technologies and deployment.

23 (220 ILCS 5/21-201 new)

24 Sec. 21-201. Definitions. As used in this Article:

25 (a) "Cable operator" means that term as defined in 47

1 U.S.C. 522(5).

2 (b) "Cable service" means that term as defined in 47 U.S.C.  
3 522(6).

4 (c) "Cable service or video service authorization" means an  
5 initial authorization issued by the Commission, regardless of  
6 whether the authorization is designed as a franchise, permit,  
7 license, resolution, contract, certificate, agreement, or  
8 otherwise, that authorizes the construction and operation of a  
9 cable system or video service provider's network in the public  
10 rights-of-way to offer cable service or video service to any  
11 subscriber in the State.

12 (d) "Cable system" means that term as defined in 47 U.S.C.  
13 522(7).

14 (e) "Commission" means the Illinois Commerce Commission.

15 (f) "Competitive video service provider" means a person or  
16 entity that is providing or seeks to provide video service, as  
17 defined in subsection (n) of this Section, in the area served  
18 or to be served by that video service provider. This term does  
19 not include a cable operator, and a competitive video service  
20 provider shall not be considered a cable operator, and the  
21 facilities of a competitive video service provider shall not be  
22 considered a cable system.

23 (g) "Holder" means a person or entity that has been issued  
24 a cable service or video service authorization from the  
25 Commission pursuant to this Article.

26 (h) "Incumbent cable operator" means a cable operator that

1 provides cable service to subscribers in a particular franchise  
2 area within a local unit of government and that serves the  
3 largest number of cable subscribers in that particular  
4 franchise area on the effective date of this Article.

5 (i) "Local franchising entity" means the local unit of  
6 government that requires a franchise with a cable operator to  
7 offer cable services.

8 (j) "Local unit of government" means a municipality, either  
9 a city, village, or incorporated town, and a county, but only  
10 with respect to those portions within that county and outside a  
11 municipality, within whose jurisdiction the holder of a State  
12 authorization under this Article may provide cable service or  
13 video service.

14 (k) "Public rights-of-way" means the areas on, below, or  
15 above a public roadway, highway, street, public sidewalk,  
16 alley, waterway, or utility easements dedicated for compatible  
17 uses.

18 (l) "Service provider fee" means the amount paid under  
19 Section 21-801 of this Article by the holder of a State-issued  
20 authorization pursuant to Section 21-301 of this Article.

21 (m) "Video programming" means that term as defined in 47  
22 U.S.C. 522(20).

23 (n) "Video service" means video programming services  
24 provided through wireline facilities located at least in part  
25 in the public rights-of-way without regard to delivery  
26 technology, including Internet protocol technology. This

1 definition does not include any video programming provided by a  
2 commercial mobile service provider defined in 47 U.S.C. 332(d)  
3 or any video programming provided as part of, and via, a  
4 service that enables users to access content, information,  
5 electronic mail, or other services offered over the public  
6 Internet.

7 (220 ILCS 5/21-301 new)

8 Sec. 21-301. Eligibility for State authorization.

9 (1) A person or entity seeking to provide cable service or  
10 video service in this State after the effective date of this  
11 Article shall file an application with and obtain a  
12 State-issued authorization from the Commission as required by  
13 this Article.

14 (2) A person or entity providing cable service or video  
15 service pursuant to an agreement with a local franchising  
16 entity or local unit of government is not eligible to obtain a  
17 State-issued authorization under this Article with respect to  
18 its current authority until the agreement expires, except as  
19 provided in subsections (3) and (4). Upon expiration of its  
20 current agreement, an incumbent cable operator not subject to  
21 subsections (3) and (4) shall obtain State authorization from  
22 the Commission pursuant to this Article and shall be subject to  
23 the provisions of this Article.

24 (3) A person or entity providing cable service or video  
25 service that is not the incumbent cable operator may elect to

1 terminate its agreement with the local franchising entity or  
2 local unit of government and obtain a State-issued  
3 authorization by providing written notice to the Commission and  
4 the affected local franchising entity or local unit of  
5 government within 90 days after the effective date of this  
6 Article. The existing agreement is terminated on the date that  
7 the Commission issues the State-issued authorization.

8 (4) A person or entity providing cable service or video  
9 service that is not the incumbent cable operator in a  
10 particular franchise area and that elects under subsection (3)  
11 to terminate an existing agreement with a local franchising  
12 entity or local unit of government is responsible for remitting  
13 to the affected franchising authority or local unit of  
14 government before the 91st day after the date the agreement is  
15 terminated any accrued but unpaid fees due under the terminated  
16 agreement. If that person or entity has credit remaining from  
17 prepaid franchise fees, that person or entity may deduct the  
18 amount of the remaining credit from any future fees or taxes it  
19 must pay to the local franchising authority or local unit of  
20 government.

21 (5) For purposes of this Article, Section 11-42-11 of the  
22 Illinois Municipal Code (65 ILCS 5/11-42-11), Section 5-1095 of  
23 the Counties Code (55 ILCS 5/5-1095), or 47 U.S.C. 521 et seq.,  
24 the Commission shall be the sole franchising authority for  
25 cable service or video service in this State. Neither the  
26 Commission nor any local unit of government may require a

1 person or entity that is eligible for and has applied for a  
2 State-issued authorization to obtain a separate franchise or  
3 otherwise impose or collect any fee on cable service or video  
4 service or franchise requirement except as provided under this  
5 Article. For purposes of this subsection, such fee or franchise  
6 requirement includes, without limitation, any provision  
7 regulating rates charged by that person or entity or requiring  
8 that person or entity to satisfy any build-out requirements or  
9 to deploy any facilities or equipment.

10 (6) Any person or entity that is subject to subsection (1)  
11 or elects pursuant to subsections (3) and (4) to be subject to  
12 the provisions of this Article shall not be subject to Section  
13 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11) or  
14 Section 5-1095 of the Counties Code (55 ILCS 5/5-1095).

15 (220 ILCS 5/21-401 new)

16 Sec. 21-401. Applications.

17 (1) A person or entity that is eligible and seeks to  
18 provide cable service or video service in this State may at any  
19 time after the effective date of this Article file an  
20 application for cable service or video service authorization  
21 with the Commission as required by this Section. A person or  
22 entity providing cable service or video service under an  
23 existing agreement with a local franchising entity or local  
24 unit of government is not subject to this Section with respect  
25 to the local franchising entity or local unit of government for



1 the area covered by that existing agreement until the agreement  
2 expires or it elects pursuant to Section 21-301 (1), (3), and  
3 (4) to obtain an authorization from the Commission.

4 (2) The application shall contain a completed affidavit  
5 submitted by the applicant and signed by an officer or general  
6 partner of the applicant affirming all of the following:

7 (a) That the applicant has filed or will timely file  
8 with the Federal Communications Commission all forms  
9 required by that agency in advance of offering cable  
10 service or video service in this State.

11 (b) That the applicant agrees to comply with all  
12 applicable federal and State statutes and regulations.

13 (c) That the applicant agrees to comply with all local  
14 unit of government regulations that are applicable and  
15 enforceable under Section 21-1001 of this Article  
16 regarding the use and occupation of public rights-of-way in  
17 the delivery of the cable service or video service.

18 (d) A general description of the cable or video service  
19 area footprint to be served.

20 (e) The location of the applicant's principal place of  
21 business and the names of the applicant's principal  
22 executive officers.

23 (3) If an application contains information that is  
24 designated as confidential and proprietary by the applicant,  
25 the Commission shall only disclose that information pursuant to  
26 a valid and enforceable subpoena or court order. This Article

1 supersedes any other provision of State law that would permit  
2 or require the Commission to disclose such information.

3 (4) The Commission shall notify an applicant for a cable  
4 service or video service authorization whether the applicant's  
5 application and affidavit are complete on or before the 15th  
6 day after the applicant submits the application. If the  
7 application and affidavit are not complete, the Commission  
8 shall state in its notice all of the reasons the application or  
9 affidavit are incomplete, and the applicant shall resubmit a  
10 complete application. The Commission shall have 30 days after  
11 submission by the applicant of a complete application and  
12 affidavit to issue the service authorization. If the Commission  
13 does not notify the applicant regarding the completeness of the  
14 application and affidavit or issue the service authorization  
15 within the time periods required under this subsection, the  
16 application and affidavit shall be considered complete and the  
17 service authorization issued upon the expiration of the 30th  
18 day.

19 (5) The cable service or video service authorization issued  
20 by the Commission or pursuant to this Article shall contain or  
21 include all of the following:

22 (a) A grant of authority to provide cable service or  
23 video service in the service area footprint as requested in  
24 the application.

25 (b) A grant of authority to use and occupy the public  
26 rights-of-way in the delivery of that service in the

1 service area footprint, subject to Section 21-1001 and the  
2 laws of this State.

3 (c) A statement that the grant of authority is subject  
4 to lawful operation of the cable service or video service  
5 by the applicant or its successor in interest.

6 (6) The cable service or video service authorization issued  
7 by the Commission is fully transferable to any successor in  
8 interest to the applicant to which it is initially granted  
9 without further Commission action. A notice of transfer shall  
10 be filed with the Commission and the relevant local unit of  
11 government within 15 business days of the completion of the  
12 transfer. The Commission is not required or authorized to act  
13 upon that notice.

14 (7) The cable service or video service authorization issued  
15 by the Commission may be terminated or its cable or video  
16 service area footprint may be modified by the cable service  
17 provider or video service provider by submitting notice to the  
18 Commission and the relevant local unit of government. The  
19 Commission is not required or authorized to act upon that  
20 notice.

21 (8) The Commission's authority to administer this Article  
22 is limited to the powers and duties explicitly provided for  
23 under this Article. Its authority under this Article does not  
24 include the powers and duties that the Commission has under the  
25 other Articles of this Act and the Illinois Administrative  
26 Procedure Act (5 ILCS 100/) to conduct proceedings or to

1 promulgate rules or regulations. The Commission shall not have  
2 the authority to either limit or expand the obligations and  
3 requirements provided in this Section or Article, or to  
4 regulate or control a person or entity to the extent that  
5 person or entity is providing cable service or video service  
6 except as provided in this Article.

7 (220 ILCS 5/21-501 new)

8 Sec. 21-501. Customer service and privacy protection.

9 (1) The holder of a State-issued authorization shall comply  
10 with all customer service rules of the Federal Communications  
11 Commission under 47 CFR 76.309(c), and as amended thereafter.  
12 As of the effective date of this Article, those rules require:

13 (a) An up-to-date copy of all of holder's rates, rules,  
14 regulations and policies related to cable service and video  
15 service must be made available to customers, or on the  
16 holder's web site, and provided to the local unit of  
17 government upon request.

18 (b) Holder will maintain a local, toll-free, or collect  
19 call telephone access line that will be available to  
20 subscribers to its cable service or video service 24 hours  
21 a day, 7 days a week. Holder's trained representatives will  
22 be available to respond to customer telephone inquiries  
23 during normal business hours. After normal business hours,  
24 the access line may be answered by a service or an  
25 automated response system, including an answering machine.

1 Inquiries received after normal business hours must be  
2 responded to by holder's trained company representative on  
3 the next business day.

4 (c) Under normal operating conditions, telephone  
5 answer time by holder's customer representative, including  
6 wait time, shall not exceed 30 seconds when the connection  
7 is made. If the call needs to be transferred, transfer time  
8 shall not exceed 30 seconds. These standards shall be met  
9 no less than 90% of the time under normal operating  
10 conditions, measured on a quarterly basis. Holder will not  
11 be required to acquire equipment or perform surveys to  
12 measure compliance with the telephone answering standards  
13 described in this subsection unless an historical record of  
14 complaints indicates a clear failure to comply.

15 (d) Under normal operating conditions, holder's  
16 customer will receive a busy signal less than 3% of the  
17 time.

18 (e) Holder's customer service center and bill payment  
19 locations will be open at least during normal business  
20 hours and will be conveniently located.

21 (f) Under normal operating conditions, each of the  
22 following 4 standards related to installations, outages,  
23 and service calls will be met no less than 95% of the time  
24 measured on a quarterly basis:

25 (i) Standard installations will be performed  
26 within 7 business days after an order has been placed.

1 "Standard" installations are those that are located up  
2 to 125 feet from the existing distribution system.

3 (ii) Excluding conditions beyond the control of  
4 holder, holder will begin working on "service  
5 interruptions" promptly and in no event later than 24  
6 hours after the interruption becomes known. Holder  
7 must begin actions to correct other service problems  
8 the next business day after notification of the service  
9 problem.

10 (iii) The "appointment window" alternatives for  
11 installations, service calls, and other installation  
12 activities will be either a specific time or, at  
13 maximum, a 4-hour time block during normal business  
14 hours. (Holder may schedule service calls and other  
15 installation activities outside of normal business  
16 hours for the express convenience of the customer.)

17 (iv) Holder may not cancel an appointment with a  
18 customer after the close of business on the business  
19 day prior to the scheduled appointment.

20 (g) If holder's representative is running late for an  
21 appointment with a customer and will not be able to keep  
22 the appointment as scheduled, the customer will be  
23 contacted. The appointment will be rescheduled, as  
24 necessary, at a time that is convenient for the customer.

25 (h) Refund checks will be issued promptly, but no later  
26 than either (i) the customer's next billing cycle following

1 resolution of the request or 30 days, whichever is earlier,  
2 or (ii) the return of the equipment supplied by holder if  
3 service is terminated.

4 (i) Credits for service will be issued no later than  
5 the customer's next billing cycle following the  
6 determination that a credit is warranted.

7 (j) The following definitions apply to the terms used  
8 in this subsection (1):

9 (i) "Normal business hours" means those hours  
10 during which most similar businesses in the geographic  
11 area of the local unit of government are open to serve  
12 customers. In all cases, "normal business hours" must  
13 include some evening hours at least one night per week  
14 or some weekend hours.

15 (ii) "Normal operating conditions" means those  
16 service conditions that are within the control of  
17 holder. Those conditions that are not within the  
18 control of holder include, but are not limited to,  
19 natural disasters, civil disturbances, power outages,  
20 telephone network outages, and severe or unusual  
21 weather conditions. Those conditions that are  
22 ordinarily within the control of holder include, but  
23 are not limited to, special promotions, pay-per-view  
24 events, rate increases, regular peak or seasonal  
25 demand periods, and maintenance or upgrade of the cable  
26 service or video service network.

1           (iii) "Service interruption" means the loss of  
2           picture or sound on one or more cable service or video  
3           service channels.

4           (2) The holder of a State-issued authorization shall comply  
5           with the consumer privacy requirements of 47 U.S.C. 551 in  
6           effect as of the effective date of this Article, and as amended  
7           thereafter.

8           (220 ILCS 5/21-601 new)

9           Sec. 21-601. Public, education, and government programming  
10          access.

11          (1) Not later than 120 days after a request by the unit of  
12          local government that has received notice under Section 801(1)  
13          of this Article, the holder of a State-issued authorization  
14          shall designate a sufficient amount of capacity on its network  
15          to provide for the same number of public, education, and  
16          government access channels that are in actual use, as described  
17          in this Section, on the incumbent cable operator's system on  
18          the effective date of this Article and make reasonable,  
19          technically feasible efforts to retransmit such community  
20          programming, but shall not be subject to any requirements under  
21          47 U.S.C. 531. Any public, education, or government channel  
22          provided under this Section that is not used by the franchising  
23          authority or local unit of government for at least 8 hours per  
24          day of non-repeat programming for 3 consecutive months may no  
25          longer be made available to the local franchising authority or



1 local unit of government and may be programmed at the  
2 provider's discretion. At such time as the local franchising  
3 authority or local unit of government can certify a schedule  
4 for at least 8 hours of daily non-repeat programming for a  
5 period of 3 consecutive months, the provider shall restore the  
6 previously allocated channel. A cable operator that elects to  
7 obtain a video service authorization pursuant to Section  
8 21-301(3) and (4) or at the expiration of its existing  
9 franchise shall continue to comply with all community  
10 programming obligations of its franchise and be subject to 47  
11 U.S.C. 531.

12 (2) The local unit of government shall ensure that all  
13 transmissions, content, or programming to be retransmitted by a  
14 holder of a State authorization to provide cable service or  
15 video service is provided or submitted to that holder in a  
16 manner or form that is capable of being accepted and  
17 retransmitted by the holder, without requirement for  
18 additional alteration or change in the content by the holder,  
19 over its particular network, and that is compatible with the  
20 technology or protocol utilized by the holder to deliver cable  
21 service or video service.

22 (3) Where technically feasible, the holder of a service  
23 authorization under this Article and a cable operator that is  
24 already providing cable service in that franchise area may  
25 interconnect their cable or video systems for the purpose of  
26 providing applicable public, education, and government

1 programming for the respective services areas. Interconnection  
2 may be accomplished by direct cable, microwave link, satellite,  
3 or other reasonable method of connection. Holders of a service  
4 authorization and cable operators that are already providing  
5 cable service in that particular franchise area shall negotiate  
6 in good faith, and those cable operators may not withhold  
7 interconnection. The provider of public, education, or  
8 government channels shall not be required to transmit over  
9 these channels any content that is branded with the logo, name,  
10 or other identifying marks of another provider.

11 (4) The local unit of government is solely responsible for  
12 all content provided over designated public, education, or  
13 government channels. A holder of a State-issued authorization  
14 shall not exercise any editorial control over any programming  
15 on any channel designed for public, education, or government  
16 use or on any other channel required by law or a binding  
17 agreement with the local franchising authority.

18 (5) A holder of a State-issued authorization is not subject  
19 to any civil or criminal liability for any program carried on  
20 any channel designated for public, education, or government use  
21 or on any other channel.

22 (220 ILCS 5/21-701 new)

23 Sec. 21-701. Emergency alert system. The holder of a  
24 State-issued authorization shall comply with all applicable  
25 requirements of the Federal Communications Commission

1 involving the distribution and notification of federal, state,  
2 and local emergency messages over the emergency alert system  
3 applicable to cable operators.

4 (220 ILCS 5/21-801 new)

5 Sec. 21-801. Applicable fees payable to the local unit of  
6 government.

7 (1) Prior to offering cable service or video service in a  
8 local unit of government's jurisdiction, a holder of a  
9 State-issued authorization shall notify the local unit of  
10 government. The notice shall be given to the local unit of  
11 government at least 10 days before the holder of that  
12 authorization begins to offer cable service or video service  
13 within the boundaries of that local unit of government.

14 (2) In any local unit of government in which a holder  
15 offers cable service or video service on a commercial basis,  
16 the holder shall be liable for and pay the service provider fee  
17 to the local unit of government: (a) upon its written request  
18 for that fee; and (b) after no less than 30 days written  
19 notice. The holder's liability for the fee shall commence only  
20 on the first day of the calendar month following the expiration  
21 of the 30-day minimum written notice period. The fee shall be  
22 equal to the lesser of 5% of gross revenues or the lowest  
23 percentage of gross revenues paid to the local unit of  
24 government by any cable operator providing cable service as of  
25 the effective date of this Article. If the local unit of

1 government makes such a request, the payment of the service  
2 provider fee shall be due on a quarterly basis, 45 days after  
3 the close of the calendar quarter. If mailed, the fee is  
4 considered paid on the date it is postmarked. The local unit of  
5 government may not demand any additional fees or charges from  
6 the holder of the State-issued authorization and may not demand  
7 the use of any other calculation method other than allowed  
8 under this Article. Notwithstanding any other provisions in  
9 this Section, no fee is due under this Section until the local  
10 unit of government certifies and provides supporting  
11 documentation of the percentages of gross revenues paid by each  
12 cable operator.

13 (3) For purposes of this Section, "gross revenues" means  
14 all consideration of any kind or nature, including, without  
15 limitation, cash, credits, property, and in-kind contributions  
16 received by the holder from subscribers for the provision of  
17 cable service or video service within the holder's cable or  
18 video service area within the local unit of government's  
19 jurisdiction.

20 (a) Gross revenues are limited to the following:

21 (i) Recurring charges for cable service or video  
22 service.

23 (ii) Event-based charges for cable service or  
24 video service, including, but not limited to,  
25 pay-per-view and video-on-demand charges.

26 (iii) Rental of set top boxes and other cable

1 service or video service equipment.

2 (iv) Service charges related to the provision of  
3 cable service or video service, including but not  
4 limited to activation, installation, and repair  
5 charges.

6 (v) Administrative charges related to the  
7 provision of cable service or video service, including  
8 but not limited to service order and service  
9 termination charges.

10 (b) Gross revenues do not include any of the following:

11 (i) Revenues not actually received, even if  
12 billed, such as bad debt.

13 (ii) Refunds, discounts, or other price  
14 adjustments that reduce the amount of gross revenues  
15 received by the holder of the State-issued  
16 authorization.

17 (iii) Regardless of whether the services are  
18 bundled, packaged, or functionally integrated with  
19 cable service or video service, any revenues from  
20 services not classified as cable service or video  
21 service, including, without limitation, revenue  
22 received from telecommunications services, information  
23 services, or the provision of directory or Internet  
24 advertising, including yellow pages, white pages,  
25 banner advertisement, and electronic publishing, or  
26 any other revenues attributed by the holder of the

1 State-issued authorization to noncable service or  
2 nonvideo service in accordance with the holder's books  
3 and records kept in the regular course of business and  
4 any applicable laws, rules, regulations, standards, or  
5 orders.

6 (iv) The sale of cable services or video services  
7 for resale in which the purchaser is required to  
8 collect the service provider fee from the purchaser's  
9 subscriber.

10 (v) Any tax or fee, including the fees specified in  
11 this Section, imposed upon the holder of the  
12 State-issued authorization or upon subscribers by a  
13 city, state, federal, or any other governmental entity  
14 and collected by the holder of the State-issued  
15 authorization and remitted to the taxing entity.

16 (vi) Security deposits collected from subscribers.

17 (vii) Late payment fees or charges, insufficient  
18 funds check charges, and other charges assessed to  
19 recover the costs of collecting delinquent payments.

20 (viii) Maintenance charges.

21 (ix) Amounts paid by subscribers to "home  
22 shopping" or similar vendors for merchandise sold  
23 through any home shopping channel offered as part of  
24 the cable service or video service.

25 (4) The holder of a State-issued authorization to provide  
26 cable service or video service shall pay to the local unit of

1 government upon request as support for public, education, and  
2 government programming a fee equal to 1% of gross revenues. The  
3 fee shall be due on a quarterly basis, 45 days after the close  
4 of the calendar quarter. If mailed, the fee is considered paid  
5 on the date it is postmarked. The liability of the holder for  
6 payment of the fee under this subsection shall commence on the  
7 same date as the payment of the service provider fee pursuant  
8 to subsection (2) of this Section. Any cable operator that  
9 pursuant to Section 21-601(1) is required to continue to  
10 provide to a unit of local government any services, facilities,  
11 or equipment, that relate to public, education, or government  
12 use of channel capacity under 47 U.S.C. 531, shall be permitted  
13 to reduce the amounts required to be paid pursuant to this  
14 subsection by any reasonable costs it incurs on an annual basis  
15 to provide such services, facilities, or equipment.

16 (5) The holder of a State-issued authorization may identify  
17 and collect the amount of the service provider fee as a  
18 separate line item on the regular bill of each subscriber.

19 (6) The holder of a State-issued authorization may identify  
20 and collect the amount of the public, education, and government  
21 programming support fee as a separate line item on the regular  
22 bill of a subscriber.

23 (7) All determinations and computations made under this  
24 Section shall be pursuant to generally accepted accounting  
25 principles.

26 (8) Nothing contained in this Article shall be construed to

1 exempt a holder of a State-issued authorization from the  
2 Commission from any tax that is or may later be imposed by the  
3 local unit of government, including any tax that is or may  
4 later be required to be paid by or through the holder with  
5 respect to cable service or video service.

6 (220 ILCS 5/21-901 new)

7 Sec. 21-901. Audits.

8 (1) No more than once per any 3-year period, a local unit  
9 of government may perform reasonable audits of the holder of a  
10 State-issued authorization's calculation of the fees paid to  
11 the local unit of government under Section 21-801. All records  
12 reasonably necessary for the audits shall be made available by  
13 the holder at the location where the records are kept in the  
14 ordinary course of business. The local unit of government and  
15 the holder shall each be responsible for their respective costs  
16 of the audit. Any additional amount due verified by the holder  
17 of an authorization and the local unit of government shall be  
18 paid within 30 days after the local unit of government's  
19 submission of an invoice for the sum.

20 (2) Any claims by a local unit of government that fees have  
21 not been paid as required under Section 21-801, and any claims  
22 for refunds or other corrections to the remittance of the  
23 holder, shall be made within 3 years of the end of the quarter  
24 for which compensation is remitted.

25 (3) If the audit contains or reveals information that is



1 designated as confidential and proprietary by the holder, the  
2 local unit of government shall only disclose that information  
3 pursuant to a valid and enforceable subpoena or court order.  
4 This supersedes any other provision of State law that would  
5 permit or require the local unit of government to disclose that  
6 information.

7 (220 ILCS 5/21-1001 new)

8 Sec. 21-1001. Local unit of government authority.

9 (1) Except as expressly provided in this Article, a local  
10 unit of government shall retain all existing authority and  
11 police powers in existence on the effective date of this  
12 Article; provided, however, that that authority and police  
13 power shall not be exercised by any local unit of government in  
14 a manner that is in conflict with the purpose or provisions of  
15 this Article or that prohibits or has the effect of prohibiting  
16 the ability of any holder of a State-issued authorization to  
17 provide cable service or video service.

18 (2) A local unit of government shall allow the holder of a  
19 State-issued authorization to provide cable service or video  
20 service to install, construct, and maintain a cable service,  
21 video service, or communications network within a public  
22 right-of-way and shall provide the holder of a State-issued  
23 authorization to provide cable service or video service with  
24 open, comparable, nondiscriminatory, and competitively neutral  
25 access to the public right-of-way. Notwithstanding any other

1 provisions of law, if a local unit of government is permitted  
2 by law to require the holder of a State authorization to seek a  
3 permit to install, construct, and maintain its cable service,  
4 video service, or communications network within a public  
5 right-of-way, those permits shall be deemed granted within 30  
6 days after being submitted, if not otherwise acted upon by the  
7 local unit of government.

8 (3) A local unit of government may not discriminate against  
9 the holder of a State-issued authorization to provide cable  
10 service or video service for any of the following:

11 (a) The authorization or placement of a cable service,  
12 video service, or communications network in public  
13 rights-of-way.

14 (b) Access to a building.

15 (c) A local unit of government utility pole attachment.

16 (4) A local unit of government may impose on a competitive  
17 video service provider a permit fee only to the extent it  
18 imposes such a fee on incumbent cable operators, and any fee  
19 may not exceed the actual, direct costs incurred by the local  
20 unit of government for issuing the relevant permit. In no event  
21 may a fee under this Section be levied if the competitive video  
22 service provider already has paid a permit fee of any kind in  
23 connection with the same activity that would otherwise be  
24 covered by the permit fee under this Section or is otherwise  
25 authorized by law or contract to place the facilities used by  
26 the competitive video service provider in the public

1 rights-of-way or for general revenue purposes.

2 (5) Nothing in this Article shall affect the rights that  
3 any holder has under Section 4 of the Telephone Line Right of  
4 Way Act (220 ILCS 65/4).

5 (220 ILCS 5/21-1101 new)

6 Sec. 21-1101. Requirements to provide video services.

7 (1) The holder of a State-issued authorization shall not  
8 deny access to cable service or video service to any potential  
9 residential subscribers because of the race or income of the  
10 residents in the local area in which the group resides.

11 (2) It is a defense to an alleged violation of subsection  
12 (1) if the holder of the State-issued authorization has met any  
13 of the following conditions:

14 (a) 3 years have not expired since the issuance of the  
15 State authorization.

16 (b) 3 years after the date the holder of the  
17 State-issued authorization began providing cable service  
18 or video service in the local area, at least 25% of  
19 households with access to the holder's cable service or  
20 video service are low-income households.

21 (c) Beginning 5 years after the date the holder of the  
22 State-issued authorization began providing cable service  
23 or video service in the local area, at least 30% of the  
24 households with access to the holder's cable service or  
25 video service are low-income households.

1       (3) If the holder of a State-issued authorization is: (i)  
2       using telecommunications facilities to provide cable service  
3       or video service in this State; and (ii) has more than  
4       1,000,000 telecommunications access lines in this State, the  
5       holder shall provide access to its cable service or video  
6       service to a number of households equal to at least 20% of the  
7       households in the holder's telecommunications service area in  
8       the State within 3 years after the date it began providing  
9       cable service or video service under this Article and to a  
10       number not less than 40% of these households within 6 years.  
11       The holder of a State-issued authorization is not required to  
12       meet the 40% requirement in this subsection until 2 years after  
13       at least 30% of the households with access to the holder's  
14       video service subscribe to the service for 6 consecutive  
15       months.

16       (4) The holder of a State-issued authorization may satisfy  
17       the requirements of this Section through the use of  
18       direct-to-home satellite service or another alternative  
19       technology that offers service, functionality, and content  
20       that is demonstrably similar to that provided through the  
21       holder's cable service or video service system.

22       (5) The holder of a State-issued authorization may apply to  
23       the Commission, for a waiver of or for an extension of time to  
24       meet the requirements of subsection (3) of this Section, if one  
25       or more of the following apply:

26               (a) The inability to obtain access to public and

1 private rights-of-way under reasonable terms and  
2 conditions.

3 (b) Developments or buildings not being subject to  
4 competition because of existing exclusive service  
5 arrangements.

6 (c) Developments or buildings being inaccessible using  
7 reasonable technical solutions under commercially  
8 reasonable terms and conditions.

9 (d) Natural disasters.

10 (e) Factors beyond the control of the video service  
11 provider.

12 (6) If the holder seeks a waiver or extension pursuant to  
13 subsection (5) of this Section, the waiver application shall  
14 state (a) what substantial effort the holder of a State-issued  
15 authorization has taken to meet the requirements of subsection  
16 (3) of this Section; (b) which portions of subsection (5) of  
17 this Section apply; and (c) the number of days it has been  
18 delayed or the requirements it cannot perform as a consequence  
19 of subsection (5). No later than 30 days after the waiver has  
20 been submitted to the Commission, the Commission shall notify  
21 the holder of the State-issued authorization whether the  
22 application is complete. If portions of the application are  
23 incomplete, the holder of the State-issued authorization shall  
24 provide the supplemental information identified in the  
25 notification from the Commission. Within 30 days after  
26 receiving a completed application, the Commission shall grant

1 the waiver or extension. If an extension is granted, the  
2 Commission shall establish a new compliance deadline  
3 consistent with the effect of such delay as described in  
4 subsection (5). If an additional period of time to perform is  
5 not practicable because of the nature of the waiver as  
6 described in subsection (5), the Commission shall specify the  
7 requirements waived. In reviewing waiver applications, the  
8 Commission is subject to the provisions of Section 21-401(7) of  
9 this Article.

10 (7) As used in this subsection, the following definitions  
11 apply.

12 "Household" means consistent with the United States Census  
13 Bureau, a house, an apartment, a mobile home, a group of rooms,  
14 or a single room that is intended for occupancy as separate  
15 living quarters. Separate living quarters are those in which  
16 the occupants live and eat separately from any other persons in  
17 the building and which have direct access from the outside of  
18 the building or through a common hall.

19 "Low-income household" means those residential households  
20 located within the holder's existing telephone service area  
21 where the average annual household income is less than \$35,000  
22 based on the United States Census Bureau estimates adjusted  
23 annually to reflect rates of change and distribution through  
24 January 1, 2007.

25 "Access" means that the holder is capable of providing  
26 cable service or video service at the household address using

1 direct-to-home satellite service or any technology providing  
2 two-way broadband Internet capability and video programming,  
3 content, and functionality, regardless of whether any customer  
4 has ordered service or whether the owner or landlord or other  
5 responsible person has granted access to the household. If more  
6 than one technology is used, the technologies shall provide  
7 similar two-way broadband Internet accessibility and similar  
8 video programming.

9 Notwithstanding any other provision of this Article, the  
10 holder of a State-issued authorization using  
11 telecommunications facilities to provide cable service or  
12 video service is not obligated to provide that service outside  
13 the holder's existing telecommunications service area.

14 (220 ILCS 5/21-1201 new)

15 Sec. 21-1201. Access to property and payment for access.

16 (1) In any area in this State in which the Commission has  
17 granted a cable service or video service authorization pursuant  
18 to this Article, no property owner, condominium association,  
19 managing agent, lessee, or other person in possession or  
20 control of any residential building located within that area  
21 shall forbid or prevent any occupant, tenant, or lessee of any  
22 such building from receiving cable service or video service  
23 from the holder of such State-issued authorization, nor demand  
24 or accept payment from any such occupant, tenant, or lessee in  
25 any form as a condition of permitting the installation of cable

1 service or video service facilities or the maintenance of cable  
2 service or video service in any such building or any portion  
3 thereof occupied or leased by such occupant, tenant, or lessee,  
4 nor shall any such property owner, condominium association,  
5 managing agent, lessee, or other person discriminate in rental  
6 charges or otherwise against any occupant, tenant, or lessee  
7 receiving cable service or video service; provided, however,  
8 that the owner of the building may require, in exchange and as  
9 compensation for permitting the installation of cable service  
10 or video service facilities within and upon that building, the  
11 payment of just compensation by the holder of the State-issued  
12 service authorization which provides such cable service or  
13 video service, that sum to be determined in accordance with the  
14 provisions of subsections (3) and (4) of this Section, and  
15 provided further that the holder of the State-issued  
16 authorization installing those cable service or video service  
17 facilities shall agree to indemnify the owner of the building  
18 for any damage caused by the installation, operation, or  
19 removal of the cable service or video service facilities and  
20 service. No holder of a State-issued authorization shall  
21 install cable service or video service facilities within a  
22 residential building pursuant to this subsection (1) unless an  
23 occupant, tenant, or lessee of that residential building  
24 requests the delivery of those services. In any instance in  
25 which a request for service is made by more than 3 occupants,  
26 tenants, or lessees of a residential building, the holder of a



1 State-issued authorization may install cable service and video  
2 service facilities throughout the building in a manner that  
3 enables the holder of a State-issued authorization to provide  
4 cable services or video services to occupants, tenants, or  
5 lessees of other residential units without requiring the  
6 installation of additional cable service or video service  
7 facilities other than within the residential units occupied by  
8 such other occupants, tenants or lessees.

9 (2) Any area in this State in which the Commission has  
10 granted a cable service or video service authorization pursuant  
11 to this Article, no property owner, condominium association,  
12 managing agent, lessee, or other person in possession and  
13 control of any improved or unimproved real estate located  
14 within such area shall forbid or prevent the holder of a  
15 State-issued authorization from entering upon that real estate  
16 for the purpose of and in connection with the construction or  
17 installation of that cable service or video service facilities,  
18 nor shall any such property owner, condominium association,  
19 managing agent, lessee, or other person in possession or  
20 control of that real estate forbid or prevent the holder of a  
21 State-issued authorization from constructing or installing  
22 upon, beneath, or over the real estate, including any buildings  
23 or other structures located thereon, hardware, cable, fiber,  
24 equipment, materials, or other cable service or video service  
25 facilities used by the holder of a State-issued authorization  
26 in the construction and installation of those cable service or

1 video service facilities; provided, however, that the owner of  
2 any such real estate may require, in exchange and as  
3 compensation for permitting the construction or installation  
4 of cable service or video service facilities upon, beneath, or  
5 over such real estate, the payment of just compensation by the  
6 holder of a State-issued authorization which provides that  
7 cable service or video service, that sum to be determined in  
8 accordance with the provisions of subsections (3) and (4) of  
9 this Section, and provided further that the holder of a  
10 State-issued authorization constructing or installing those  
11 cable service or video service facilities shall agree to  
12 indemnify the owner of the real estate for any damage caused by  
13 the installation, operation, or removal of the cable service or  
14 video service facilities and service.

15 (3) In any instance in which the owner of a residential  
16 building or the owner of improved or unimproved real estate  
17 intends to require the payment of just compensation in excess  
18 of \$1 in exchange for permitting the installation of cable  
19 service or video service facilities in and upon such building,  
20 or upon, beneath, or over such real estate, the owner shall  
21 serve written notice thereof upon the holder of the  
22 State-issued authorization. Any such notice shall be served  
23 within 20 days after the date on which the owner is notified of  
24 the holder's intention to construct or install cable service or  
25 video service facilities in and upon such building, or upon,  
26 beneath or over such real estate. Unless timely notice as

1 provided in this subsection (3) is given by the owner to the  
2 holder of the State-issued authorization, it shall be  
3 conclusively presumed that the owner of any such building or  
4 real estate does not claim or intend to require a payment of  
5 more than \$1 in exchange and as just compensation for  
6 permitting the installation of cable service or video service  
7 facilities within and upon the building, or upon, beneath, or  
8 over the real estate. In any instance in which the holder of  
9 the State-issued authorization intends to install cable  
10 service or video service facilities as herein provided, written  
11 notice of that intention shall be sent by the holder of the  
12 State-issued authorization to the property owner or to such  
13 person, association, or managing agent as shall have been  
14 appointed or otherwise designated to manage or operate the  
15 property. The notice shall include the address of the property,  
16 the name of the holder of the State-issued authorization, and  
17 information as to the time within which the owner may give  
18 notice, demand payment as just compensation, and initiate legal  
19 proceedings as provided in this subsection (3) and subsection  
20 (4). In any instance in which the holder of the State-issued  
21 authorization intends to install cable service or video service  
22 facilities within a residential building containing 12 or more  
23 residential units or upon, beneath, or over real estate that is  
24 used as a site for 12 or more manufactured housing units, 12 or  
25 more mobile homes, or a combination of 12 or more manufactured  
26 housing units and mobile homes, the written notice shall

1 further provide that the property owner may require that the  
2 holder of the State-issued authorization submit to the owner  
3 written plans identifying the manner in which cable service or  
4 video service facilities are to be installed, including the  
5 proposed location of those facilities. Approval of those plans  
6 by the property owner shall not be unreasonably withheld and  
7 the owners' consent to and approval of the plans shall be  
8 presumed unless, within 30 days after receipt thereof, or in  
9 the case of a condominium association, 90 days after receipt  
10 thereof, the property owner identifies in writing the specific  
11 manner in which the plans deviate from generally accepted  
12 construction or safety standards, and unless the property owner  
13 contemporaneously submits an alternative construction plan  
14 providing for the installation of cable service or video  
15 service facilities in an economically feasible manner. The  
16 holder of the State-issued authorization may proceed with the  
17 plans originally submitted if an alternative plan is not  
18 submitted by the property owner within 30 days, or in the case  
19 of a condominium association, 90 days, or if an alternative  
20 plan submitted by the property owner fails to comply with  
21 generally accepted construction and safety standards or does  
22 not provide for the installation of cable television or cable  
23 service or video service facilities in an economically feasible  
24 manner. For purposes of this subsection, "mobile home" and  
25 "manufactured housing unit" have the same meaning ascribed to  
26 those terms in the Illinois Manufactured Housing and Mobile

1 Home Safety Act.

2 (4) Any owner of a residential building described in  
3 subsection (1), and any owner of improved or unimproved real  
4 estate described in subsection (2), who shall have given timely  
5 written notice to the holder of the State-issued authorization  
6 as provided in subsection (3), may assert a claim for just  
7 compensation in excess of \$1 for permitting the installation of  
8 cable service or video service facilities within and upon such  
9 building, or upon, beneath, or over such real estate. Within 30  
10 days after notice has been given in accordance with subsection  
11 (3), the owner shall advise the holder of the State-issued  
12 authorization in writing of the amount claimed as just  
13 compensation. If within 60 days after the receipt of the  
14 owner's claim, the holder of the State-issued authorization has  
15 not agreed to pay the amount claimed or some other amount  
16 acceptable to the owner, the owner may bring suit to enforce  
17 the claim for just compensation in any court of competent  
18 jurisdiction and, upon timely demand, may require that the  
19 amount of just compensation be determined by a jury. Any such  
20 action shall be commenced within 6 months after the notice  
21 given by the holder of the State-issued authorization pursuant  
22 to subsection (3). In any action brought to determine that  
23 amount, the owner may submit evidence of a decrease in the fair  
24 market value of the property occasioned by the installation or  
25 location of the cable service or video service facilities on  
26 the property, that the owner has a specific alternative use for

1 the space occupied by cable service or video service  
2 facilities, the loss of which will result in a monetary loss to  
3 the owner, or that installation of cable service or video  
4 service facilities within and upon such building or upon,  
5 beneath or over such real estate otherwise substantially  
6 interferes with the use and occupancy of that building to an  
7 extent that causes a decrease in the fair market value of the  
8 building or real estate.

9 (5) Neither the giving of a notice by the owner under  
10 subsection (3), nor the assertion of a specific claim, nor the  
11 initiation of legal action to enforce such claim, as provided  
12 under subsection (4), shall delay or impair the right of the  
13 holder of the State-issued authorization to construct or  
14 install cable service or video service facilities within or  
15 upon any building described in subsection (1) or upon, beneath,  
16 or over real estate described in subsection (2).

17 (6) Notwithstanding the foregoing, no holder of a  
18 State-issued authorization shall enter upon any real estate or  
19 rights of way in the possession or control of any other public  
20 utility, railroad, or owner or operator of an oil, petroleum  
21 product, chemical, or gas pipeline to install or remove cable  
22 service or video service facilities or to provide underground  
23 maintenance or repair services with respect thereto, prior to  
24 delivery to such public utility, railroad, or pipeline owner or  
25 operator of written notice of intent to enter, install,  
26 maintain, or remove. No entry shall be made until at least 15

1 business days after receipt of the written notice. The written  
2 notice, which shall be delivered to the registered agent of  
3 such public utility, railroad, or pipeline owner or operator,  
4 shall include the following information:

5 (a) The date of the proposed installation,  
6 maintenance, repair, or removal and projected length of  
7 time required to complete the installation, maintenance,  
8 repair, or removal;

9 (b) The manner and method of the installation,  
10 maintenance, repair, or removal;

11 (c) The location of the proposed entry and path of  
12 cable service or video service facilities proposed to be  
13 placed, repaired, maintained, or removed upon the real  
14 estate or right of way; and

15 (d) The written agreement of the holder of the  
16 State-issued authorization to indemnify and hold harmless  
17 such public utility, railroad, or pipeline owner or  
18 operator from the costs of any damages directly or  
19 indirectly caused by the installation, maintenance,  
20 repair, operation, or removal of cable service or video  
21 service facilities. Upon request of the public utility,  
22 railroad, or owner or operator of an oil, petroleum  
23 product, chemical, or gas pipeline, the holder of the  
24 State-issued authorization shall provide proof that it has  
25 purchased and will maintain a policy or policies of  
26 insurance in amounts sufficient to provide coverage for

1 personal injury and property damage losses caused by or  
2 resulting from the installation, maintenance, repair, or  
3 removal of cable service or video service facilities. The  
4 written agreement shall provide that the holder of the  
5 State-issued authorization shall maintain such policies of  
6 insurance in full force and effect as long as cable service  
7 or video service facilities remain on the real estate or  
8 right of way.

9 Within 15 business days after receipt of the written prior  
10 notice of entry the public utility, railroad, or pipeline owner  
11 or operator shall investigate and determine whether or not the  
12 proposed entry and installation or repair, maintenance, or  
13 removal would create a dangerous condition threatening the  
14 safety of the public or the safety of its employees or  
15 threatening to cause an interruption of the furnishing of vital  
16 transportation, utility, or pipeline services and upon so  
17 finding shall so notify the holder of the State-issued  
18 authorization of that decision in writing. Initial  
19 determination of the existence of such a dangerous condition or  
20 interruption of services shall be made by the public utility,  
21 railroad, or pipeline owner or operator whose real estate or  
22 right of way is involved. In the event that the holder of the  
23 State-issued authorization disagrees with such determination,  
24 a determination of whether the entry and installation,  
25 maintenance, repair, or removal would create such a dangerous  
26 condition or interrupt services shall be made by a court of



1 competent jurisdiction upon the application of the holder of  
2 the State-issued authorization. An initial written  
3 determination of a public utility, railroad, or pipeline owner  
4 or operator timely made and transmitted to the holder of the  
5 State-issued authorization, in the absence of a determination  
6 by a court of competent jurisdiction finding to the contrary,  
7 bars the entry of the holder of the State-issued authorization  
8 upon the real estate or right of way for any purpose.

9 Any public utility, railroad, or pipeline owner or operator  
10 may assert a written claim against any holder of the  
11 State-issued authorization for just compensation within 30  
12 days after written notice has been given in accordance with  
13 this subsection (6). If, within 60 days after the receipt of  
14 such claim for compensation, the holder of the State-issued  
15 authorization has not agreed to the amount claimed or some  
16 other amount acceptable to the public utility, railroad, or  
17 pipeline owner or operator, the public utility, railroad, or  
18 pipeline owner or operator may bring suit to enforce the claim  
19 for just compensation in any court of competent jurisdiction  
20 and, upon timely demand, may require that the amount of just  
21 compensation be determined by a jury. Any such action shall be  
22 commenced within 6 months after the notice provided for in this  
23 subsection (6). In any action brought to determine such just  
24 compensation, the public utility, railroad, or pipeline owner  
25 or operator may submit such evidence as may be relevant to the  
26 issue of just compensation. Neither the assertion of a claim

1 for compensation nor the initiation of legal action to enforce  
2 the claim shall delay or impair the right of the holder of the  
3 State-issued authorization to construct or install cable  
4 service or video service facilities upon any real estate or  
5 rights of way of any public utility, railroad, or pipeline  
6 owner or operator.

7 To the extent that the public utility, railroad, or owner  
8 or operator of an oil, petroleum product, chemical, or gas  
9 pipeline deems it appropriate to supervise, monitor, or  
10 otherwise assist the holder of the State-issued authorization  
11 in connection with the installation, maintenance, repair, or  
12 removal of cable service or video service facilities upon such  
13 real estate or rights of way, the holder of the State-issued  
14 authorization shall reimburse the public utility, railroad, or  
15 owner or operator of an oil, petroleum product, chemical, or  
16 gas pipeline for costs reasonable and actually incurred in  
17 connection therewith.

18 The provisions of this subsection (6) shall not be  
19 applicable to any easements, rights-of-way, or ways for public  
20 service facilities in which public utilities, other than  
21 railroads, have any interest pursuant to the Plat Act and all  
22 ordinances enacted pursuant thereto. Such easements,  
23 rights-of-way, and ways for public service facilities are  
24 hereby declared to be apportionable and upon written request by  
25 a holder of a State-issued authorization, public utilities  
26 shall make such easements, rights-of-way, and ways for public

1 service facilities available for the construction,  
2 maintenance, repair, or removal of cable service or video  
3 service facilities provided that the construction,  
4 maintenance, repair, or removal does not create a dangerous  
5 condition threatening the safety of the public or the safety of  
6 the public utility employees or threatening to cause an  
7 interruption of the furnishing of vital utility service.  
8 Initial determination of the existence of such a dangerous  
9 condition or interruption of services shall be made by the  
10 public utility whose easement, right-of-way, or way for public  
11 service facility is involved. If the holder of the State-issued  
12 authorization disagrees with that determination, a  
13 determination of whether the construction, maintenance,  
14 repair, or removal would create such a dangerous condition or  
15 threaten to interrupt vital utility services shall be made by a  
16 court of competent jurisdiction upon the application of the  
17 holder of the State-issued authorization.

18 If a municipality or county notifies or a municipality or  
19 county requires a developer to notify a public utility before  
20 or after issuing a permit or other authorization for the  
21 construction of residential buildings, then the municipality,  
22 county, or developer shall, at the same time, similarly notify  
23 any holder of a State-issued authorization within that  
24 municipality or county.

25 In addition to such other notices as may be required by  
26 this subsection (6), a holder of a State-issued authorization

1 shall not enter upon the real estate or rights-of-way of any  
2 other public utility, railroad, or pipeline owner or operator  
3 for the purposes of above ground maintenance or repair of its  
4 cable service or video service facilities without giving 96  
5 hours prior written notice to the registered agent of the  
6 public utility, railroad, or pipeline owner or operator  
7 involved, or in the case of a public utility, notice may be  
8 given through the statewide one-call notice system provided for  
9 by General Order of the Illinois Commerce Commission or, if in  
10 Chicago, through the system known as the Chicago Utility Alert  
11 Network.

12 (220 ILCS 5/21-1301 new)

13 Sec. 21-1301. Home rule.

14 (a) It is declared to be the law of this State, pursuant to  
15 paragraph (h) of Section 6 of Article VII of the Illinois  
16 Constitution, that the establishment of standards and  
17 procedures for, and the granting of, all cable service and  
18 video service authorizations after the effective date of, and  
19 as provided in, this Article are exclusive State powers and  
20 functions that may not be exercised by a home rule unit.

21 (b) With respect to the other provisions of this Article  
22 that are not subject to subsection (a), a home rule unit may  
23 not impose restrictions or limitations that are inconsistent  
24 with those other provisions of this Article. This subsection is  
25 a limitation under subsection (i) of Section 6 of Article VII

1 of the Illinois Constitution on the concurrent exercise by home  
2 rule units of powers and functions exercised by the State.

3 (220 ILCS 5/21-1401 new)

4 Sec. 21-1401. This Article shall be enforced only by a  
5 court of competent jurisdiction.

6 Section 90. The Illinois Administrative Procedure Act is  
7 amended by changing Section 1-5 as follows:

8 (5 ILCS 100/1-5) (from Ch. 127, par. 1001-5)

9 Sec. 1-5. Applicability.

10 (a) This Act applies to every agency as defined in this  
11 Act. Beginning January 1, 1978, except as otherwise set forth  
12 in this Act, in case of conflict between the provisions of this  
13 Act and the Act creating or conferring power on an agency, this  
14 Act shall control. If, however, an agency (or its predecessor  
15 in the case of an agency that has been consolidated or  
16 reorganized) has existing procedures on July 1, 1977,  
17 specifically for contested cases or licensing, those existing  
18 provisions control, except that this exception respecting  
19 contested cases and licensing does not apply if the Act  
20 creating or conferring power on the agency adopts by express  
21 reference the provisions of this Act. Where the Act creating or  
22 conferring power on an agency establishes administrative  
23 procedures not covered by this Act, those procedures shall

1 remain in effect.

2 (b) The provisions of this Act do not apply to (i)  
3 preliminary hearings, investigations, or practices where no  
4 final determinations affecting State funding are made by the  
5 State Board of Education, (ii) legal opinions issued under  
6 Section 2-3.7 of the School Code, (iii) as to State colleges  
7 and universities, their disciplinary and grievance  
8 proceedings, academic irregularity and capricious grading  
9 proceedings, and admission standards and procedures, and (iv)  
10 the class specifications for positions and individual position  
11 descriptions prepared and maintained under the Personnel Code.  
12 Those class specifications shall, however, be made reasonably  
13 available to the public for inspection and copying. The  
14 provisions of this Act do not apply to hearings under Section  
15 20 of the Uniform Disposition of Unclaimed Property Act.

16 (c) Section 5-35 of this Act relating to procedures for  
17 rulemaking does not apply to the following:

18 (1) Rules adopted by the Pollution Control Board that,  
19 in accordance with Section 7.2 of the Environmental  
20 Protection Act, are identical in substance to federal  
21 regulations or amendments to those regulations  
22 implementing the following: Sections 3001, 3002, 3003,  
23 3004, 3005, and 9003 of the Solid Waste Disposal Act;  
24 Section 105 of the Comprehensive Environmental Response,  
25 Compensation, and Liability Act of 1980; Sections 307(b),  
26 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal

1 Water Pollution Control Act; and Sections 1412(b),  
2 1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking  
3 Water Act.

4 (2) Rules adopted by the Pollution Control Board that  
5 establish or amend standards for the emission of  
6 hydrocarbons and carbon monoxide from gasoline powered  
7 motor vehicles subject to inspection under Section 13A-105  
8 of the Vehicle Emissions Inspection Law and rules adopted  
9 under Section 13B-20 of the Vehicle Emissions Inspection  
10 Law of 1995.

11 (3) Procedural rules adopted by the Pollution Control  
12 Board governing requests for exceptions under Section 14.2  
13 of the Environmental Protection Act.

14 (4) The Pollution Control Board's grant, pursuant to an  
15 adjudicatory determination, of an adjusted standard for  
16 persons who can justify an adjustment consistent with  
17 subsection (a) of Section 27 of the Environmental  
18 Protection Act.

19 (5) Rules adopted by the Pollution Control Board that  
20 are identical in substance to the regulations adopted by  
21 the Office of the State Fire Marshal under clause (ii) of  
22 paragraph (b) of subsection (3) of Section 2 of the  
23 Gasoline Storage Act.

24 (d) Pay rates established under Section 8a of the Personnel  
25 Code shall be amended or repealed pursuant to the process set  
26 forth in Section 5-50 within 30 days after it becomes necessary

1 to do so due to a conflict between the rates and the terms of a  
2 collective bargaining agreement covering the compensation of  
3 an employee subject to that Code.

4 (e) Section 10-45 of this Act shall not apply to any  
5 hearing, proceeding, or investigation conducted under Section  
6 13-515 of the Public Utilities Act.

7 (f) Article 10 of this Act does not apply to any hearing,  
8 proceeding, or investigation conducted by the State Council for  
9 the State of Illinois created under Section 3-3-11.05 of the  
10 Unified Code of Corrections or by the Interstate Commission  
11 ~~Commission~~ for Adult Offender Supervision created under the  
12 Interstate Compact for Adult Offender Supervision.

13 (g) This Act is subject to the provisions of Article XXI of  
14 the Public Utilities Act. To the extent that any provision of  
15 this Act conflicts with the provisions of that Article XXI, the  
16 provisions of that Article XXI control.

17 (Source: P.A. 92-571, eff. 6-26-02; revised 7-25-02.)

18 Section 91. The State Mandates Act is amended by adding  
19 Section 8.31 as follows:

20 (30 ILCS 805/8.31 new)

21 Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8  
22 of this Act, no reimbursement by the State is required for the  
23 implementation of any mandate created by this amendatory Act of  
24 the 95th General Assembly.



1 Section 92. The Counties Code is amended by adding Section  
2 5-1096.5 as follows:

3 (55 ILCS 5/5-1096.5 new)

4 Sec. 5-1096.5. Cable and video competition. This Act is  
5 subject to the provisions of Article XXI of the Public  
6 Utilities Act. To the extent that any provision of this Act  
7 conflicts with the provisions of that Article XXI, the  
8 provisions of that Article XXI control.

9 Section 93. The Illinois Municipal Code is amended by  
10 adding Section 11-42-11.2 as follows:

11 (65 ILCS 5/11-42-11.2 new)

12 Sec. 11-42-11.2. Cable and video competition. This Act is  
13 subject to the provisions of Article XXI of the Public  
14 Utilities Act. To the extent that any provision of this Act  
15 conflicts with the provisions of that Article XXI, the  
16 provisions of that Article XXI control.

17 Section 94. The Eminent Domain Act is amended by changing  
18 Section 15-5-25 and by adding Section 90-5-25 as follows:

19 (735 ILCS 30/15-5-25)

20 Sec. 15-5-25. Eminent domain powers in ILCS Chapters 205

1 through 430. The following provisions of law may include  
2 express grants of the power to acquire property by condemnation  
3 or eminent domain:

4 (220 ILCS 5/8-509); Public Utilities Act; public utilities; for  
5 construction of certain improvements.

6 (220 ILCS 5/21-1201); Public Utilities Act; holders of State  
7 issued authorizations; for cable service or video service.

8 (220 ILCS 15/1); Gas Storage Act; corporations engaged in the  
9 distribution, transportation, or storage of natural gas or  
10 manufactured gas; for their operations.

11 (220 ILCS 15/2 and 15/6); Gas Storage Act; corporations engaged  
12 in the distribution, transportation, or storage of natural  
13 gas or manufactured gas; for use of an underground  
14 geological formation for gas storage.

15 (220 ILCS 30/13); Electric Supplier Act; electric  
16 cooperatives; for general purposes.

17 (220 ILCS 55/3); Telegraph Act; telegraph companies; for  
18 telegraph lines.

19 (220 ILCS 65/4); Telephone Company Act; telecommunications  
20 carriers; for telephone company purposes.

21 (225 ILCS 435/23); Ferries Act; ferry operators; for a landing,  
22 ferryhouse, or approach.

23 (225 ILCS 440/9); Highway Advertising Control Act of 1971;  
24 Department of Transportation; for removal of signs  
25 adjacent to highways.

1 (310 ILCS 5/6 and 5/38); State Housing Act; housing  
2 corporations; for general purposes.

3 (310 ILCS 10/8.3); Housing Authorities Act; housing  
4 authorities; for general purposes.

5 (310 ILCS 10/8.15); Housing Authorities Act; housing  
6 authorities; for implementation of conservation plans and  
7 demolition.

8 (310 ILCS 10/9); Housing Authorities Act; housing authorities;  
9 for general purposes.

10 (310 ILCS 20/5); Housing Development and Construction Act;  
11 housing authorities; for development or redevelopment.

12 (310 ILCS 35/2); House Relocation Act; political subdivisions  
13 and municipal corporations; for relocation of dwellings  
14 for highway construction.

15 (315 ILCS 5/14); Blighted Areas Redevelopment Act of 1947; land  
16 clearance commissions; for redevelopment projects.

17 (315 ILCS 10/5); Blighted Vacant Areas Development Act of 1949;  
18 State of Illinois; for housing development.

19 (315 ILCS 20/9 and 20/42); Neighborhood Redevelopment  
20 Corporation Law; neighborhood redevelopment corporations;  
21 for general purposes.

22 (315 ILCS 25/4 and 25/6); Urban Community Conservation Act;  
23 municipal conservation boards; for conservation areas.

24 (315 ILCS 30/12); Urban Renewal Consolidation Act of 1961;  
25 municipal departments of urban renewal; for blighted area  
26 redevelopment projects.

1 (315 ILCS 30/20 and 30/22); Urban Renewal Consolidation Act of  
2 1961; municipal departments of urban renewal; for  
3 implementing conservation areas.

4 (315 ILCS 30/24); Urban Renewal Consolidation Act of 1961;  
5 municipal departments of urban renewal; for general  
6 purposes.

7 (415 ILCS 95/6); Junkyard Act; Department of Transportation;  
8 for junkyards or scrap processing facilities.

9 (420 ILCS 35/1); Radioactive Waste Storage Act; Illinois  
10 Emergency Management Agency; for radioactive by-product  
11 and waste storage.

12 (Source: P.A. 94-1055, eff. 1-1-07.)

13 (735 ILCS 30/90-5-25 new)

14 Sec. 90-5-25. Cable and video competition. This Act is  
15 subject to the provisions of Article XXI of the Public  
16 Utilities Act. To the extent that any provision of this Act  
17 conflicts with the provisions of that Article XXI, the  
18 provisions of that Article XXI control.

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.

1 INDEX  
2 Statutes amended in order of appearance

- 3 220 ILCS 5/Art. XXI
- 4 heading new
- 5 220 ILCS 5/21-100 new
- 6 220 ILCS 5/21-101 new
- 7 220 ILCS 5/21-201 new
- 8 220 ILCS 5/21-301 new
- 9 220 ILCS 5/21-401 new
- 10 220 ILCS 5/21-501 new
- 11 220 ILCS 5/21-601 new
- 12 220 ILCS 5/21-701 new
- 13 220 ILCS 5/21-801 new
- 14 220 ILCS 5/21-901 new
- 15 220 ILCS 5/21-1001 new
- 16 220 ILCS 5/21-1101 new
- 17 220 ILCS 5/21-1201 new
- 18 220 ILCS 5/21-1301 new
- 19 220 ILCS 5/21-1401 new
- 20 5 ILCS 100/1-5 from Ch. 127, par. 1001-5
- 21 30 ILCS 805/8.31 new
- 22 55 ILCS 5/5-1096.5 new
- 23 65 ILCS 5/11-42-11.2 new
- 24 735 ILCS 30/15-5-25
- 25 735 ILCS 30/90-5-25 new