

5200--A

2015-2016 Regular Sessions

I N   S E N A T E

May 7, 2015

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Introduced by Sen. RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the county law, in relation to communication service surcharges applied to Oswego county

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The county law is amended by adding a new section 309 to  
2     read as follows:  
3     S 309. ESTABLISHMENT OF COUNTY OF OSWEGO WIRELESS SURCHARGE. 1.  
4     NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, THE COUNTY OF  
5     OSWEGO, ACTING THROUGH ITS LOCAL COUNTY LEGISLATIVE BODY, IS HEREBY  
6     AUTHORIZED AND EMPOWERED TO ADOPT, AMEND OR REPEAL LOCAL LAWS TO IMPOSE  
7     A SURCHARGE IN AN AMOUNT NOT TO EXCEED THIRTY CENTS PER MONTH ON WIRE-  
8     LESS COMMUNICATIONS SERVICE IN OSWEGO COUNTY. THE SURCHARGE SHALL BE  
9     IMPOSED ON EACH WIRELESS COMMUNICATIONS DEVICE AND SHALL BE REFLECTED  
10    AND MADE PAYABLE ON BILLS RENDERED FOR WIRELESS COMMUNICATIONS SERVICE  
11    THAT IS PROVIDED TO A CUSTOMER WHOSE PLACE OF PRIMARY USE IS WITHIN THE  
12    COUNTY. FOR PURPOSES OF THIS SECTION, THE TERM "PLACE OF PRIMARY USE"  
13    SHALL MEAN THE STREET ADDRESS THAT IS REPRESENTATIVE OF WHERE THE  
14    CUSTOMER'S USE OF THE WIRELESS COMMUNICATIONS SERVICE PRIMARILY OCCURS,  
15    WHICH ADDRESS MUST BE: (A) THE RESIDENTIAL STREET ADDRESS OR THE PRIMARY  
16    BUSINESS STREET ADDRESS OF THE CUSTOMER; AND (B) WITHIN THE LICENSED  
17    SERVICE AREA OF THE WIRELESS COMMUNICATIONS SERVICE SUPPLIER.  
18    2. ANY LOCAL LAW ADOPTED PURSUANT TO THIS SECTION SHALL STATE THE  
19    AMOUNT OF THE SURCHARGE AND THE DATE ON WHICH THE WIRELESS COMMUNI-  
20    CATIONS SERVICE SUPPLIER SHALL BEGIN TO ADD SUCH SURCHARGE TO THE BILL-  
21    INGS OF ITS CUSTOMERS. ANY WIRELESS COMMUNICATIONS SERVICE SUPPLIER  
22    WITHIN OSWEGO COUNTY WHICH HAS IMPOSED A SURCHARGE PURSUANT TO THE  
23    PROVISIONS OF THIS SECTION SHALL BE GIVEN A MINIMUM OF FORTY-FIVE DAYS  
24    WRITTEN NOTICE PRIOR TO THE DATE IT SHALL BEGIN TO ADD SUCH SURCHARGE TO  
25    THE BILLINGS OF ITS CUSTOMERS OR PRIOR TO ANY MODIFICATION TO OR CHANGE  
26    IN THE SURCHARGE AMOUNT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD10480-02-5

1 3. (A) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SERVING OSWEGO  
2 COUNTY SHALL ACT AS COLLECTION AGENT FOR THE COUNTY AND SHALL REMIT THE  
3 FUNDS COLLECTED PURSUANT TO A SURCHARGE IMPOSED UNDER THE PROVISIONS OF  
4 THIS SECTION TO THE CHIEF FISCAL OFFICER OF OSWEGO COUNTY EVERY MONTH.  
5 SUCH FUNDS SHALL BE REMITTED NO LATER THAN THIRTY DAYS AFTER THE LAST  
6 BUSINESS DAY OF THE MONTH.

7 (B) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL BE ENTITLED TO  
8 RETAIN, AS AN ADMINISTRATIVE FEE, AN AMOUNT EQUAL TO TWO PERCENT OF ITS  
9 COLLECTIONS OF A SURCHARGE IMPOSED UNDER THE PROVISIONS OF THIS SECTION.

10 (C) ANY SURCHARGE REQUIRED TO BE COLLECTED BY A WIRELESS COMMUNI-  
11 CATIONS SERVICE SUPPLIER SHALL BE ADDED TO AND STATED SEPARATELY IN ITS  
12 BILLINGS TO CUSTOMERS.

13 (D) EACH WIRELESS COMMUNICATIONS SERVICE CUSTOMER WHO IS SUBJECT TO  
14 THE PROVISIONS OF THIS SECTION SHALL BE LIABLE TO OSWEGO COUNTY FOR THE  
15 SURCHARGE UNTIL IT HAS BEEN PAID TO OSWEGO COUNTY EXCEPT THAT PAYMENT TO  
16 A WIRELESS COMMUNICATIONS SERVICE SUPPLIER IS SUFFICIENT TO RELIEVE THE  
17 CUSTOMER FROM FURTHER LIABILITY FOR SUCH SURCHARGE.

18 (E) NO WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL HAVE A LEGAL  
19 OBLIGATION TO ENFORCE THE COLLECTION OF ANY SURCHARGE IMPOSED UNDER THE  
20 PROVISIONS OF THIS SECTION, PROVIDED, HOWEVER, THAT WHENEVER THE WIRE-  
21 LESS COMMUNICATIONS SERVICE SUPPLIER REMITS THE FUNDS COLLECTED TO OSWE-  
22 GO COUNTY, IT SHALL ALSO PROVIDE OSWEGO COUNTY WITH THE NAME AND ADDRESS  
23 OF ANY CUSTOMER REFUSING OR FAILING TO PAY A SURCHARGE IMPOSED UNDER THE  
24 PROVISIONS OF THIS SECTION AND SHALL STATE THE AMOUNT OF SUCH SURCHARGE  
25 REMAINING UNPAID.

26 (F) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL ANNUALLY  
27 PROVIDE TO OSWEGO COUNTY AN ACCOUNTING OF THE SURCHARGE AMOUNTS BILLED  
28 AND COLLECTED.

29 4. ALL SURCHARGE MONIES REMITTED TO OSWEGO COUNTY BY A WIRELESS COMMU-  
30 NICATIONS SERVICE SUPPLIER SHALL BE EXPENDED ONLY UPON AUTHORIZATION OF  
31 THE LOCAL COUNTY LEGISLATIVE BODY AND ONLY FOR PAYMENT OF ELIGIBLE WIRE-  
32 LESS 911 SERVICE COSTS AS DEFINED IN SUBDIVISION SIXTEEN OF SECTION  
33 THREE HUNDRED TWENTY-FIVE OF THIS CHAPTER. THE COUNTY OF OSWEGO SHALL  
34 SEPARATELY ACCOUNT FOR AND KEEP ADEQUATE BOOKS AND RECORDS OF THE AMOUNT  
35 AND SOURCE OF ALL SUCH MONIES AND OF THE AMOUNT AND OBJECT OR PURPOSE OF  
36 ALL EXPENDITURES THEREOF. IF, AT THE END OF ANY FISCAL YEAR, THE TOTAL  
37 AMOUNT OF ALL SUCH MONIES EXCEEDS THE AMOUNT NECESSARY FOR PAYMENT OF  
38 THE ABOVE MENTIONED COSTS IN SUCH FISCAL YEAR, SUCH EXCESS SHALL BE  
39 RESERVED AND CARRIED OVER FOR THE PAYMENT OF THOSE COSTS IN THE FOLLOW-  
40 ING FISCAL YEAR.

41 S 2. This act shall take effect immediately, provided, however, that  
42 the provisions of subdivision 1 of section 309 of the county law, as  
43 added by section one of this act shall apply to bills rendered to wire-  
44 less communications service customers by a wireless communications  
45 service supplier on and after the expiration of the notice period  
46 required pursuant to the provisions of subdivision 2 of such section  
47 309; provided further, that a wireless communications service supplier  
48 may treat the address used by such supplier for any wireless communi-  
49 cations customer under a service contract or agreement in effect on the  
50 effective date of the local law imposing such surcharge, as that wire-  
51 less communications customer's place of primary use for the remaining  
52 term of such service contract or agreement, excluding any extension or  
53 renewal of such service contract or agreement, for purposes of determin-  
54 ing the taxing jurisdiction with respect to taxes on wireless communi-  
55 cations service.