# STATE OF NEW YORK

9832

# IN ASSEMBLY

April 11, 2024

Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Local Governments

AN ACT to amend the town law and the tax law, in relation to the imposition of an emergency telephone system surcharge for service within towns

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. The town law is amended by adding a new article 10-A to read as follows:

**ARTICLE 10-A**

**ENHANCED EMERGENCY TELEPHONE SYSTEM SURCHARGE**

**Section 160. Legislative findings and declaration of intent.**
**161. Definitions.**
**162. Application of article.**
**163. Establishment of surcharge for system costs.**
**164. Application; limitations; exemptions.**
**165. Collection of surcharge.**
**166. Liability for surcharge.**
**167. System revenues; adjustment of surcharge.**
**168. Miscellaneous provisions.**

**§ 160. Legislative findings and declaration of intent. The legislature recognizes the paramount importance of the health, safety and welfare of the citizens of the state and further recognizes that when the lives or property of its citizens are in imminent danger that timely and appropriate assistance must be rendered. The legislature recognizes further that such assistance is almost always summoned by telephone and that a multiplicity of emergency telephone numbers exist within any one town and that unintentional, though avoidable, delays in reaching appropriate emergency aid can and do occur to the detriment and jeopardy of life and property.**

**The legislature acknowledges that the three digit number, 911, is a nationally recognized and applied telephone number which may be used to summon emergency aid and to eliminate delays caused by lack of familiar-**

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

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ity with emergency numbers and by understandable confusion in circumstances of crisis.

The legislature finds that the enhanced emergency telephone service known as E911 provides substantial benefits beyond basic 911 systems through the provision of selective routing and automatic number and location identification and that these enhancements not only significantly reduce the response time of emergency services but also represent the state of the art in fail-safe emergency telephone system technology.

The legislature further finds that a major obstacle to the establishment of an E911 system in the various towns within the state is the cost of the telecommunication equipment and services which are necessary to provide such system.

The legislature further finds and declares that, by the enactment of the provisions of this article, it is the intent of the legislature to fulfill its obligation to provide for the health, safety and welfare of the people of this state by providing towns within the state with a funding mechanism to assist in the payment of the costs associated with establishing and maintaining an E911 system and thereby considerably increase the potential for providing all citizens of this state with the valuable services inherent in an E911 system.

§ 161. Definitions. When used in this article, the following words and phrases shall have the following meanings unless the specific context clearly indicates otherwise:

1. "Municipality" means any town that maintains an E911 system except a town wholly contained within a city.

2. "Board" means the board of supervisors of a town or an elected town legislative body.

3. "E911 system" means an enhanced emergency telephone service which automatically connects a person dialing the digits 9-1-1 to an established public service answering point and which shall include, but not be limited to, selective routing, automatic number identification and automatic location identification.

4. "911 service area" means the area within the geographic boundaries of a town which has established an E911 system.

5. "Public safety agency" means a functional division of a public agency which provides or has the authority to provide police, firefighting, emergency medical or ambulance services or other emergency services or a private entity which provides emergency medical or ambulance services.

6. "Public service answering point" means a communications facility which first receives 911 calls from persons within a 911 service area and which may, as appropriate, directly dispatch the services of a public safety agency or extend, transfer, relay or otherwise route 911 calls to the appropriate public safety agency.

7. "Service supplier" means (i) a telephone corporation which provides local exchange access service within a 911 service area, or (ii) a provider of "voice over internet protocol service" or "VOIP service" that provides such service within a 911 service area.

8. "System costs" means the costs associated with obtaining and maintaining the telecommunication equipment, all operations and maintenance costs and the telephone services costs necessary to establish and provide an E911 system.

9. "Wireless communications device" means any equipment used to access a wireless communications service.

10. "Wireless communications service" means all commercial mobile services, as that term is defined in section 332(d) of title 47, United States Code, as amended from time to time, including, but not limited to, all broadband personal communications services, wireless radio telephone services, geographic area specialized and enhanced specialized mobile radio services, and incumbent-wide area specialized mobile radio licensees, which offer real time, two-way voice or data service that is interconnected with the public switched telephone network or otherwise provides access to emergency communications services.

11. "Place of primary use" shall mean the street address representative of where a wireless communications customer's use of the wireless telecommunications service primarily occurs, and must be: (i) the residential street address or the primary business street address of the wireless communications customer and (ii) within the licensed service area of the wireless communications service supplier.

12. "Wireless communications service supplier" means any commercial entity that operates a wireless communications service in New York state.

13. "Voice over internet protocol service" or "VOIP service" shall mean any service that (i) enables real-time, two-way voice communications; (ii) requires a broadband connection from the user's location; (iii) requires internet protocol compatible customer premises equipment (CPE); and (iv) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

§ 162. Application of article. This article shall apply to every town except a town wholly contained within a city.

§ 163. Establishment of surcharge for system costs. 1. Notwithstanding the provisions of any law to the contrary, any municipality of this state, acting through its board, is hereby authorized and empowered to adopt, amend or repeal local laws to impose a surcharge in an amount not to exceed thirty-five cents per access line per month on the customers of every service supplier within such municipality to pay for the costs associated with obtaining, operating and maintaining the telecommunication equipment and telephone services needed to provide an enhanced 911 emergency telephone system to serve such municipality.

2. Any such local law shall state the amount of the surcharge, the date on which the service supplier shall begin to add such surcharge to the billings of its customers and, to the extent practicable, the date on which such E911 service is to begin. Such local law may authorize the service supplier to begin billing its customers for such surcharge prior to the date the E911 system service is to begin.

3. Any service supplier within a municipality which has imposed a surcharge pursuant to the provisions of this article shall be given a minimum of forty-five days written notice prior to the date it shall begin to add such surcharge to the billings of its customers or prior to any modification to or change in the surcharge amount.

§ 164. Application; limitations; exemptions. 1. The surcharge established pursuant to the provisions of this article shall be imposed on a per access line basis on all current bills rendered for local exchange access service within the 911 service area.

2. Any such surcharge shall have uniform application and shall be imposed throughout the entire municipality to the greatest extent possible in conformance with the availability of such E911 system within the municipality.

3. No such surcharge shall be imposed upon more than seventy-five exchange access lines per customer per location.

4. Lifeline customers, a public safety agency and any municipality which has enacted a local law pursuant to the provisions of this article shall be exempt from any surcharge imposed under this article.

§ 165. Collection of surcharge. 1. The appropriate service supplier or suppliers serving a 911 service area shall act as collection agent for the municipality and shall remit the funds collected as the surcharge to the chief fiscal officer of the town every month. Such funds shall be remitted no later than thirty days after the last business day of such period.

2. The service supplier shall be entitled to retain as an administrative fee an amount equal to two percent of its collections of the surcharge.

3. The surcharge required to be collected by the service supplier shall be added to and stated separately in its billings to the customer.

4. The service supplier shall annually provide to the municipality an accounting of the surcharge amounts billed and collected.

§ 166. Liability for surcharge. 1. Each service supplier customer who is subject to the provisions of this article shall be liable to the municipality for the surcharge until it has been paid to the municipality, except that payment to a service supplier is sufficient to relieve the customer from further liability for such surcharge.

2. The service supplier shall have no obligation to take any legal action to enforce the collection of any surcharge. However, whenever the service supplier remits the funds collected as the surcharge to the town, it shall also provide the town with the name and address of any customer refusing or failing to pay the surcharge imposed by this article and shall state the amount of such surcharge remaining unpaid.

§ 167. System revenues; adjustment of surcharge. All surcharge monies remitted to the municipality by a service supplier and all other monies dedicated to the payment of system costs from whatever source derived or received by the municipality shall be expended only upon authorization of the board and only for payment of system costs as permitted by this article. The municipality shall separately account for and keep adequate books and records of the amount and source of all such revenues and of the amount and object or purpose of all expenditures thereof. If at the end of any fiscal year the total amount of all such revenues exceeds the amount necessary for payment of system costs in such fiscal year, such excess shall be reserved and carried over for the payment of system costs in the following fiscal year. However, if at the end of any fiscal year such E911 reserved fund balance exceeds an amount equal to five percent of that necessary for the payment of system costs in such fiscal year, the board shall by local law reduce the surcharge for the following fiscal year to a level which more adequately reflects the system cost requirements of its E911 system. The board may also by local law reestablish or increase such surcharge, subject to the provisions of section one hundred sixty-three of this article, if the revenues generated by such surcharge and by any other source are not adequate to pay for system costs.

§ 168. Miscellaneous provisions. 1. At least one public service answering point within and serving the 911 service area of a municipality which has enacted a local law or resolution pursuant to the provisions of this article shall be operated on a twenty-four hour basis.

**2. The board may also apply for and accept federal monies and may accept contributions and donations from any source for the purpose of funding an E911 emergency telephone system.**

**3. Nothing contained in this article shall require the imposition of a surcharge by a municipality which has established or plans to establish an E911 system to serve such municipality nor preclude other means of funding all or part of an E911 system nor require the operation or establishment of such system by any municipality.**

**4. Records, in whatever form they may be kept, of calls made to a municipality's E911 system shall not be made available to or obtained by any entity or person, other than that municipality's public safety agency, another government agency or body, or a private entity or a person providing medical, ambulance or other emergency services, and shall not be utilized for any commercial purpose other than the provision of emergency services.**

§ 2. Subdivision 9 of section 186-a of the tax law, as amended by chapter 757 of the laws of 1989, is amended to read as follows:

9. Notwithstanding any other provision contained in this chapter or any other law, any surcharge collected or any administrative fee retained by any telephone corporation acting as collection agent for a municipality pursuant to the provisions of article six of the county law **or of article ten-A of the town law** shall not be considered as nor included in the determination of gross income or gross operating income of or by such corporation.

§ 3. This act shall take effect immediately.