

An Act

ENROLLED HOUSE
BILL NO. 2358

By: Watson of the House

and

Holt of the Senate

An Act relating to cities and towns; amending 11 O.S. 2011, Sections 22-107.1 and 22-107.2, which relate to licenses or permits for the operation of cable television systems; changing scope of municipal authority from cable television services to video services; deleting certain authorization; making a certificate, license, permit or franchise a bargained contract; providing for a rental payment; limiting amount of rental payment; adding the term franchise; deleting authorization to assign or transfer a certificate, license or permit; allowing a municipality to grant overlapping certificates, licenses, permits or franchises; granting existing holders of a certificate, license, permit or franchise right to adopt certain terms; authorizing a municipality to adopt certain ordinances under certain power; expanding certain limitation; clarifying language; adding a definition; changing authorization to charge a late fee from cable television services to video services; and declaring an emergency.

SUBJECT: Municipal regulation of video services

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2011, Section 22-107.1, is amended to read as follows:

Section 22-107.1 A. A municipality may by ordinance or otherwise ~~issue~~ grant a certificate, license ~~or~~, permit, or franchise for the operation of a ~~cable television~~ video services system, unless such authority is already provided for by law. ~~A municipality may establish such certificate, license or permit requirements as it deems appropriate in the exercise of its police power.~~ Any certificate, license, permit or franchise granted pursuant to this section shall constitute a bargained contract between the municipality and the video services provider and shall provide for a consideration payment to the municipality as rental for the privileges granted to the provider to use the public ways and grounds within the municipality in furtherance of its video services business. The rental payment shall be set at the amount bargained between the municipality and the video services provider but shall not exceed five percent (5%) of the annual gross revenues derived by the video services provider from the provision of video services within the municipality. Any certificate, license ~~or~~, permit or franchise issued by the governing body shall be nonexclusive and shall not exceed a period of twenty-five (25) years and may be revocable by the governing body if said body determines that the holder of the certificate, license ~~or~~, permit or franchise has willfully failed or neglected to perform duties pursuant to the terms of the grant of the certificate, license ~~or~~, permit or franchise. ~~A certificate, license or permit may be assigned or transferred subject to approval of the governing body of the municipality.~~ Nothing herein shall limit the authority of a municipality to comply with state or federal law.

B. ~~No~~ In the event a municipality shall grant any grants an overlapping certificate, license, permit or franchise for ~~cable television service~~ video services within its jurisdiction on terms or conditions more favorable or less burdensome than those in any existing certificate, license, permit or franchise within such the municipality the holder of the existing certificate, license, permit or franchise shall be entitled, upon written notice to the municipality, to adopt the terms in the overlapping certificate, license, permit or franchise that are more favorable or less burdensome than those in the existing certificate, license, permit or franchise and the adopted terms shall become enforceable by the municipality.

C. In addition to any other authority granted to municipalities by this section or other applicable law, a municipality may also adopt an ordinance regulating a video services system pursuant to its police power. No municipal provisions regulating a ~~cable~~

~~television~~ video services system may be adopted which are inconsistent with either state or federal law ~~relating to cable television operations~~ or with the terms and conditions of the certificate, license, permit or franchise bargained by the municipality and the video services provider.

D. In awarding or renewing a ~~cable television~~ certificate, license, permit or franchise for video services, a municipality may require adequate assurance that the ~~cable operator~~ video services system provider will provide adequate public, educational, and governmental access channel capacity, facilities or financial support. A ~~cable operator~~ video services system provider may, at its sole option, provide a "family friendly" tier of video services in lieu of channel capacity, facilities, or financial support for public access as a condition of any certificate, license, permit or franchise for video services or renewal thereof. Nothing herein shall affect any channel capacity, facilities, or financial support for educational or governmental access contained in any certificate, license, permit or franchise for video services or renewal thereof.

E. A "family friendly" tier of services is a group of channels, offered to customers pursuant to Federal Communications Commission (FCC) regulations, that primarily contains programming with a television viewing rating of TV-Y, TV-Y7 or TV-G.

F. "Video services" means video programming, including cable services, provided through wireline facilities located at least in part in the public rights-of-way without regard to the delivery technology, including Internet protocol technology. "Video services" shall not include video programming provided by a commercial mobile service provider as defined in 47 U.S.C., Section 332(d) or provided solely as part of and via a service that enables users to access content, information, electronic mail, messaging and other services offered over the public Internet.

SECTION 2. AMENDATORY 11 O.S. 2011, Section 22-107.2, is amended to read as follows:

Section 22-107.2 A. Unless otherwise specifically prohibited by law, a seller of ~~cable television service~~ video services may assess a late fee on delinquent accounts having an unpaid balance of Twelve Dollars (\$12.00) or more.

B. The seller of ~~cable television service~~ video services shall conspicuously disclose, in the contract for service and on each

statement or invoice, the terms on which a late fee may be assessed by the seller including the amount of the fee.

C. No late fee shall be assessed which exceeds Six Dollars (\$6.00) or five percent (5%) of the unpaid amount, whichever is greater.

D. Prior to collecting a late fee, the seller shall give notice to the customer by first class mail to the customer's last known billing address as shown on the records of the seller of the amount of the delinquency at least ten (10) days prior to the date the fee will be imposed. The notice shall conspicuously state the place and address for making payment, the date on which the late fee will be imposed, and the amount of the late fee.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 1st day of March, 2016.

Presiding Officer of the House
of Representatives

Passed the Senate the 5th day of April, 2016.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____