

1 **SENATE FLOOR VERSION**

2 March 21, 2016

3 ENGROSSED HOUSE
4 BILL NO. 2358

By: Watson of the House

and

Holt of the Senate

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8 An Act relating to cities and towns; amending 11 O.S.
9 2011, Sections 22-107.1 and 22-107.2, which relate to
10 licenses or permits for the operation of cable
11 television systems; changing scope of municipal
12 authority from cable television services to video
13 services; deleting certain authorization; making a
14 certificate, license, permit or franchise a bargained
15 contract; providing for a rental payment; limiting
16 amount of rental payment; adding the term franchise;
17 deleting authorization to assign or transfer a
18 certificate, license or permit; allowing a
19 municipality to grant overlapping certificates,
20 licenses, permits or franchises; granting existing
21 holders of a certificate, license, permit or
22 franchise right to adopt certain terms; authorizing a
23 municipality to adopt certain ordinances under
24 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.

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:

1 Section 22-107.1 A. A municipality may by ordinance or
2 otherwise ~~issue~~ grant a certificate, license ~~or~~, permit, or
3 franchise for the operation of a ~~cable television~~ video services
4 system, unless such authority is already provided for by law. A
5 ~~municipality may establish such certificate, license or permit~~
6 ~~requirements as it deems appropriate in the exercise of its police~~
7 ~~power.~~ Any certificate, license, permit or franchise granted
8 pursuant to this section shall constitute a bargained contract
9 between the municipality and the video services provider and shall
10 provide for a consideration payment to the municipality as rental
11 for the privileges granted to the provider to use the public ways
12 and grounds within the municipality in furtherance of its video
13 services business. The rental payment shall be set at the amount
14 bargained between the municipality and the video services provider
15 but shall not exceed five percent (5%) of the annual gross revenues
16 derived by the video services provider from the provision of video
17 services within the municipality. Any certificate, license ~~or~~,
18 permit or franchise issued by the governing body shall be
19 nonexclusive and shall not exceed a period of twenty-five (25) years
20 and may be revocable by the governing body if said body determines
21 that the holder of the certificate, license ~~or~~, permit or franchise
22 has willfully failed or neglected to perform duties pursuant to the
23 terms of the grant of the certificate, license ~~or~~, permit or
24 franchise. ~~A certificate, license or permit may be assigned or~~

1 ~~transferred subject to approval of the governing body of the~~
2 ~~municipality.~~ Nothing herein shall limit the authority of a
3 municipality to comply with state or federal law.

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

16 C. In addition to any other authority granted to municipalities
17 by this section or other applicable law, a municipality may also
18 adopt an ordinance regulating a video services system pursuant to
19 its police power. No municipal provisions regulating a ~~cable~~
20 ~~television~~ video services system may be adopted which are
21 inconsistent with either state or federal law ~~relating to cable~~
22 ~~television operations~~ or with the terms and conditions of the
23 certificate, license, permit or franchise bargained by the
24 municipality and the video services provider.

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

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

18 F. "Video services" means video programming, including cable
19 services, provided through wireline facilities located at least in
20 part in the public rights-of-way without regard to the delivery
21 technology, including Internet protocol technology. "Video
22 services" shall not include video programming provided by a
23 commercial mobile service provider as defined in 47 U.S.C., Section
24 332(d) or provided solely as part of and via a service that enables

1 users to access content, information, electronic mail, messaging and
2 other services offered over the public Internet.

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

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

9 B. The seller of ~~cable television service~~ video services shall
10 conspicuously disclose, in the contract for service and on each
11 statement or invoice, the terms on which a late fee may be assessed
12 by the seller including the amount of the fee.

13 C. No late fee shall be assessed which exceeds Six Dollars
14 (\$6.00) or five percent (5%) of the unpaid amount, whichever is
15 greater.

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

23 SECTION 3. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
4 March 21, 2016 - DO PASS
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