

1 A bill to be entitled
2 An act relating to multitenant access to
3 telecommunications and voice-over-Internet protocol;
4 providing definitions; providing for telecommunications
5 and voice-over-Internet protocol services access to
6 multitenant environments; providing standards; prohibiting
7 certain contracts; providing for dispute resolution;
8 providing procedures and requirements; requiring the
9 Public Service Commission to adopt rules to implement
10 multitenant access; prohibiting certain compensation of
11 landlords under certain circumstances; providing for
12 imposition of penalties; providing an effective date.

13
14 WHEREAS, the Legislature finds that the competitive
15 provision of telecommunications services and voice-over-Internet
16 protocol is in the public interest and will provide customers
17 with freedom of choice, encourage the introduction of new
18 telecommunications services and voice-over-Internet protocol,
19 and encourage technological innovation along with investment in
20 telecommunications infrastructure, and

21 WHEREAS, legislation that will permit telecommunications
22 service and voice-over-Internet protocol providers to gain
23 access to multiple-tenant environments in order to serve
24 potential and actual customers on a fair, reasonable,
25 nondiscriminatory, and competitively neutral basis is in the
26 public interest, and

27 WHEREAS, the Legislature believes that it is in the public
28 interest to set policies and procedures by which a property

29 owner may grant to telecommunications companies and voice-over-
30 Internet protocol providers access to a multitenant property in
31 order to construct, install, own, operate, maintain, repair,
32 disconnect, replace, or remove fiber optic cable, associated
33 equipment, or any ancillary equipment necessary to make
34 available telecommunications services and voice-over-Internet
35 protocol in, on, over, or across the multitenant property, and

36 WHEREAS, the Legislature believes it is in the public
37 interest to set minimum standards and guiding principles to
38 allow telecommunications companies and voice-over-Internet
39 protocol providers to gain access to multitenant properties to
40 provide equal access to these companies in a competitive
41 marketplace, and

42 WHEREAS, the Legislature believes the tenants should have
43 the right to freely choose a telecommunications company and
44 voice-over-Internet protocol provider, to prohibit a property
45 owner from discriminating among telecommunications companies and
46 voice-over-Internet protocol providers, and to prohibit a
47 property owner from preventing these telecommunication companies
48 and voice-over-Internet protocol providers from installing
49 facilities in, on, over, and across its property, and

50 WHEREAS, the Legislature believes that the tenants' right
51 to choose a telecommunications company or voice-over-Internet
52 protocol provider must be balanced with the property owners'
53 right to manage access to the property and the
54 telecommunications companies' and voice-over-Internet protocol
55 providers' right to access the property in order to serve
56 parties on the property, and

57 WHEREAS, the Legislature believes that it is necessary
 58 to confirm the right of a telecommunications company and voice-
 59 over-Internet protocol provider to access any property, and

60 WHEREAS, the Legislature also finds that an important
 61 public purpose is achieved by providing access to multitenant
 62 environments, public and private, residential and
 63 nonresidential, for telecommunications companies and voice-over-
 64 Internet protocol providers seeking to promote competition and
 65 choice in delivering telecommunications services, NOW,

66 THEREFORE,

67

68 Be It Enacted by the Legislature of the State of Florida:

69

70 Section 1. Multitenant environments; regulation; access;
 71 Florida Public Service Commission jurisdiction.--

72 (1) As used in this section, the term:

73 (a) "Reasonable and necessary costs" means the
 74 nondiscriminatory, reasonable, direct, and actual incremental
 75 costs incurred by a landlord as a result of a telecommunications
 76 company's or voice-over-Internet protocol provider's use of the
 77 space. Costs shall not include gross revenue fees, rental
 78 charges, free fiber or telecommunications services and voice-
 79 over-Internet protocol, or any other form of compensation
 80 payable by a telecommunications company or voice-over-Internet
 81 protocol provider for access to property. This list is not
 82 intended to be exhaustive.

83 (b) "Emergency" means an interruption of service or a
 84 condition that poses a clear and immediate danger to life or
 85 health or a significant loss of property.

86 (c) "Exclusionary contract" means an agreement between a
 87 landlord and a telecommunications company or voice-over-Internet
 88 protocol provider in which the company or provider is given
 89 exclusive access to the landlord's property for the purpose of
 90 providing telecommunications service or voice-over-Internet
 91 protocol.

92 (d) "Marketing agreement" means an agreement between a
 93 landlord or property manager and a telecommunications company or
 94 voice-over-Internet protocol provider in which the
 95 telecommunications company or voice-over-Internet protocol
 96 provider provides some form of remuneration to the landlord or
 97 property manager for each tenant subscribing to the service of
 98 the telecommunications company or voice-over-Internet protocol
 99 provider.

100 (e) "Multitenant environment" means building or buildings
 101 or a part of a building, which is rented, leased, hired out,
 102 arranged or designed to be occupied, or is occupied:

103 1. As the home or residence of two or more families living
 104 independently of each other;

105 2. As the place of business of one or more persons, firms,
 106 or corporations conducting business independently of each other;
 107 or

108 3. By any combination of such families and such persons,
 109 firms, or corporations totaling three or more, and which are
 110 located on a single tract of land or tracts of land that are

111 adjoining or would be adjoining in the absence of streets or
 112 other public rights-of-way.

113
 114 The term also includes any type of structure, ownership
 115 interest, and tenancy with multiple owners or tenants except
 116 condominiums, as defined in chapter 718, Florida Statutes, in
 117 which the condominium owners have delegated responsibility to a
 118 group of individuals, an entity, a board, or an association to
 119 secure one provider of telecommunications services and voice-
 120 over-Internet protocol for all end users in the condominium;
 121 cooperatives, as defined in chapter 719, Florida Statutes, in
 122 which the cooperative owners have delegated responsibility to a
 123 group of individuals, an entity, a board, or an association to
 124 secure one provider of telecommunications services or voice-
 125 over-Internet protocol for all end users in the cooperative;
 126 homeowners' associations, as defined in chapter 720, Florida
 127 Statutes; and short-term tenancies served by call aggregators as
 128 defined by the Florida Public Service Commission.

129 (f) "Landlord" means owner of the property, its authorized
 130 representatives, and any and all parties that have control over
 131 any part of the property or telecommunications facility within
 132 the property.

133 (g) "Space" means any area of the property that will be
 134 used to install the facilities needed to provide
 135 telecommunications services and voice-over-Internet protocol on
 136 the property. Space includes, but is not limited to, conduit and
 137 may be located in or on the rooftop of a building or buildings
 138 of the property.

139 (h) "Tenant" means any occupant in a multitenant
 140 environment or any authorized subtenant of such occupant whose
 141 occupancy is subject to the terms of the primary lease. The term
 142 includes any person, corporation, or entity possessing an
 143 ownership interest in a condominium or cooperative that is not
 144 excluded from the definition of a multitenant environment.

145 (i) "Voice-over-Internet protocol" means any Internet-
 146 protocol-enabled services offering real-time, multidirectional
 147 voice functionality, including, but not limited to, services
 148 that mimic traditional telephony.

149 (2) A telecommunications company or voice-over-Internet
 150 protocol provider shall have access to space in multitenant
 151 environments to provide telecommunications services and voice-
 152 over-Internet protocol pursuant to the following standards:

153 (a) Access shall be granted on a reasonable,
 154 nondiscriminatory, and technologically neutral basis.

155 (b) Tenants, landlords, and telecommunications companies
 156 or voice-over-Internet protocol providers shall make every
 157 reasonable effort to negotiate terms and conditions for access.

158 (c) A landlord may charge a telecommunications company,
 159 voice-over-Internet protocol provider, or tenant the reasonable
 160 and necessary costs of installation and removal of the company's
 161 or voice-over-Internet protocol provider's network equipment and
 162 facilities.

163 (d) A landlord may impose conditions reasonably necessary
 164 for the safety, security, and aesthetics of the property.

165 (3) A landlord shall:

166 (a) Comply with all laws, rules, and regulations,
 167 including, but not limited to, environmental laws, rules, and
 168 regulations, applicable to the property.

169 (b) Grant to a telecommunications company or voice-over-
 170 Internet protocol provider, if requested, permission to install
 171 antennas on the roof of the property.

172 (c) Assist in locating and providing access to available
 173 building riser and conduit, and the telecommunications company
 174 or voice-over-Internet protocol provider shall have the right to
 175 construct, where necessary and at its sole cost, additional
 176 conduit facilities associated with the facilities.

177 (d) Identify the demarcation point on the property to the
 178 telecommunications company or voice-over-Internet protocol
 179 provider.

180 (e) Be responsible for obtaining all necessary easements
 181 across another tenant's premises.

182 (f) Disclose to potential tenants the existence of any
 183 marketing agreement.

184 (4) A landlord shall not:

185 (a) Prevent or delay more than 10 business days a
 186 telecommunications company or voice-over Internet protocol
 187 provider from constructing, installing, operating, maintaining,
 188 repairing, disconnecting, replacing, or removing facilities on,
 189 in, over, and across the property.

190 (b) Interfere with the telecommunications company or
 191 voice-over-Internet protocol provider installation of facilities
 192 on the property.

193 (c) Discriminate against a telecommunications company or
 194 voice-over-Internet protocol provider installation, terms, or
 195 compensation by which a telecommunications company or voice-
 196 over-Internet protocol provider gains access to place its
 197 facilities and provide its telecommunications services or voice-
 198 over-Internet protocol to a tenant on the property.

199 (d) Demand an unreasonable or discriminatory payment of
 200 any kind, or in any form, from a tenant or a telecommunications
 201 company or voice-over-Internet protocol provider for allowing
 202 the telecommunications company or voice-over-Internet protocol
 203 provider access to the property.

204 (e) Discriminate against a tenant in any manner, including
 205 rental charge discrimination, based on its choice of
 206 telecommunications company or voice-over-Internet protocol
 207 provider.

208 (f) Erect any indirect or direct barriers to entry that
 209 have the effect of delaying or denying a telecommunications
 210 company or voice-over-Internet protocol provider access to the
 211 property, or denying a tenant the right to choose its service
 212 provider.

213 (g) Enter into exclusive access agreements or exclusionary
 214 agreements with any telecommunications company or voice-over-
 215 Internet protocol provider.

216 (h) Prevent a telecommunications company or voice-over-
 217 Internet protocol provider from gaining access to the property
 218 during an emergency.

219 (i) Deny access to space previously dedicated to public
 220 service if that space is sufficient to accommodate the

221 facilities needed for access; however, a landlord may deny
 222 access to space if the space required for installation is not
 223 reasonably sufficient to accommodate the request or when the
 224 installation would unreasonably interfere with the aesthetics of
 225 the building.

226 (j) Charge a fee other than the reasonable and necessary
 227 costs for the privilege of providing telecommunications service
 228 and voice-over-Internet protocol to a tenant.

229 (k) Demand a waiver of liability for, or indemnification
 230 from, losses, costs, damages, expenses, judgments, or claims to
 231 the extent caused by the landlord's own negligence or willful
 232 misconduct.

233 (5) The telecommunications company or voice-over-Internet
 234 protocol provider has the right to install facilities in, on,
 235 across, and over the property in order to provide
 236 telecommunications services or voice-over-Internet protocol to
 237 tenants:

238 (a) For a period no longer than the remaining term of the
 239 tenant's lease unless otherwise agreed to by the
 240 telecommunications company or voice-over-Internet protocol
 241 provider and the landlord. Should the tenant's lease renew, the
 242 agreement between the telecommunications company or voice-over-
 243 Internet protocol provider and the landlord automatically
 244 continues, without the need for renegotiation, for the term of
 245 the tenant's renewal.

246 (b) For a period longer than the remaining term of the
 247 tenant's lease if the telecommunications company or voice-over-
 248 Internet protocol provider has determined it is in the best

249 interest of the company or provider to allow its facilities to
 250 remain on the property:

251 1. Without interference from the landlord, except as
 252 provided in this subsection.

253 2. At terms, conditions, and, if applicable, compensation
 254 rates which are fair, reasonable, nondiscriminatory, and
 255 competitively neutral.

256 (6) The Florida Public Service Commission shall have
 257 exclusive jurisdiction for the purpose of resolving disputes
 258 arising between telecommunications companies or voice-over-
 259 Internet protocol providers, tenants, and landlords concerning
 260 access to tenants for the provision of telecommunications
 261 services and voice-over-Internet protocol in multitenant
 262 environments as outlined in this section.

263 (a) The following must occur before an action for access
 264 may be brought:

265 1. After a tenant initiates a request to a
 266 telecommunications company or voice-over-Internet protocol
 267 provider for service, the telecommunications company or voice-
 268 over-Internet protocol provider and the tenant shall convey the
 269 request for service to the landlord.

270 2. If a landlord is unresponsive to a request for access,
 271 a written request shall be submitted to the landlord.

272 3. If the landlord fails to respond within 10 business
 273 days, if access is denied, or if reasonable and
 274 nondiscriminatory terms for access cannot be agreed upon, the
 275 telecommunications company or voice-over-Internet protocol

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276 provider and the tenant may file a petition with the commission
277 for review.

278 (b) In resolving disputes related to access, the
279 commission shall apply the standards described and shall resolve
280 the disputes on an expedited basis no later than 120 days after
281 the filing of a petition.

282 (c) The commission shall have the authority to adopt rules
283 necessary to implement the provisions of this section. The
284 commission shall have the power to impose upon any person or
285 entity under this section that is found to have refused to
286 comply with or to have willfully violated any lawful rule or
287 order of the commission, the penalties and remedies prescribed
288 in s. 364.285, Florida Statutes.

289 Section 2. This act shall take effect upon becoming law.