

1 A bill to be entitled
2 An act relating to statewide cable television franchises;
3 providing a short title; providing legislative findings;
4 amending s. 202.24, F.S.; prohibiting counties and
5 municipalities from negotiating terms and conditions
6 relating to cable services; deleting authorization to
7 negotiate; revising application to existing ordinances or
8 franchise agreements; amending s. 337.401, F.S.; deleting
9 authorization for counties and municipalities to award
10 cable service franchises and a restriction that cable
11 service companies not operate without such a franchise;
12 amending s. 337.4061, F.S.; revising definitions; creating
13 ss. 610.102, 610.103, 610.104, 610.105, 610.107, 610.1075,
14 610.108, 610.109, 610.1105, 610.1115, 610.112, 610.113,
15 610.114, 610.115, 610.116, 610.117, 610.118, and 610.119,
16 F.S.; designating the Department of State as the
17 franchising authority; prohibiting counties and
18 municipalities from granting new franchises for cable
19 services after a certain date; providing definitions;
20 authorizing counties and municipalities to enact a
21 standard cable ordinance for providing cable service;
22 providing notice requirements; providing ordinance
23 requirements; providing construction relating to authority
24 over communications services other than cable service or
25 competitive video programming services; providing for a
26 statutory certificate of franchise authority from the
27 state in absence of standard cable ordinance enactment;
28 providing eligibility requirements; specifying required

29 provisions of standard cable ordinance; providing for
30 optional provisions of a standard cable ordinance;
31 providing application procedures and requirements for a
32 statutory certificate of franchise authority; providing
33 for issuing certificates of franchise authority; providing
34 eligibility requirements and criteria for a certificate;
35 authorizing the department to adopt rules; authorizing the
36 department to revoke certificates under certain
37 circumstances; providing for an application form;
38 providing for fees; specifying authority contained in a
39 certificate of authority; providing conditions of
40 eligibility of incumbent cable service providers to seek
41 an ordinance or statutory certificate of authority;
42 prohibiting the department from imposing taxes, fees, or
43 charges on a cable service provider to issue a
44 certificate; requiring certificateholders to make cable
45 service available at certain public buildings under
46 certain circumstances; imposing certain customer service
47 requirements on cable service providers; requiring the
48 Department of Agriculture and Consumer Services to receive
49 customer service complaints; requiring provision of
50 public, educational, and governmental access channels or
51 capacity equivalent; providing criteria, requirements, and
52 procedures; providing exceptions; providing
53 responsibilities of municipalities and counties relating
54 to such channels; providing for enforcement; providing
55 requirements for and limitations on counties and
56 municipalities relating to access to public right-of-way;

57 prohibiting counties and municipalities from imposing
 58 additional requirements on certificateholders; authorizing
 59 counties and municipalities to require permits of
 60 certificateholders relating to public right-of-way;
 61 providing permit criteria and requirements; prohibiting
 62 discrimination between cable service subscribers;
 63 providing for enforcement; providing for determinations of
 64 violations; providing for enforcement of compliance by
 65 certificateholders; providing applicability to competitive
 66 video programming services; providing report requirements;
 67 providing enforcement limitations; providing severability;
 68 creating s. 364.1605, F.S.; specifying duties for certain
 69 incumbent local exchange carriers relating to voice-over-
 70 Internet protocols; specifying application of certain
 71 federal standards for certain requests of incumbent local
 72 exchange carries; providing definitions; repealing s.
 73 166.046, F.S., relating to definitions and minimum
 74 standards for cable television franchises imposed upon
 75 counties and municipalities; amending ss. 350.81 and
 76 364.0361, F.S.; conforming cross-references; providing an
 77 effective date.

78
 79 Be It Enacted by the Legislature of the State of Florida:

80
 81 Section 1. This act may be cited as the "Consumer
 82 Broadband Choice Act of 2007."

83 Section 2. Legislative findings.--

84 (1) The Legislature finds that:

85 (a) Cable programming services provide numerous benefits
86 to the health, safety, and welfare of the residents of this
87 state, including access to a variety of news, public
88 information, education, and entertainment programming.

89 (b) The state should bring uniformity and efficiency to
90 the cable service franchising authorization process that allows
91 market participants to use their networks and systems to provide
92 video, voice, and broadband services to the residents of this
93 state.

94 (2) The Legislature finds as a matter of important
95 statewide concern that reformation of the franchising process is
96 necessary to:

97 (a) Create a fair and level playing field for all market
98 competitors that does not disadvantage or advantage one service
99 provider or technology over another.

100 (b) Promote the widespread access to advanced cable
101 services to all communities in this state in a nondiscriminatory
102 manner regardless of socioeconomic status.

103 (c) Maintain local government communications services tax
104 revenues and control of public rights-of-way.

105 (d) Complement efforts to increase investment in broadband
106 infrastructure and close the digital divide.

107 (e) Continue access to and maintenance of public,
108 education, and government (PEG) channels.

109 (3) The Legislature finds that providing an incumbent
110 cable operator with the option to secure a standard ordinance or
111 statutory certificate franchise through the preemption of an
112 existing cable franchise between a cable operator and any

113 political subdivision of the state, including, but not limited
 114 to, any municipality or county, is an essential element of the
 115 new regulatory framework established by this act as a matter of
 116 statewide concern to best ensure equal protection and parity
 117 among providers and technologies, as well as to achieve the
 118 goals stated by the Legislature in enacting this act.

119 Section 3. Paragraphs (a) and (c) of subsection (2) of
 120 section 202.24, Florida Statutes, are amended to read:

121 202.24 Limitations on local taxes and fees imposed on
 122 dealers of communications services.--

123 (2)(a) Except as provided in paragraph (c), each public
 124 body is prohibited from:

125 1. Levying on or collecting from dealers or purchasers of
 126 communications services any tax, charge, fee, or other
 127 imposition on or with respect to the provision or purchase of
 128 communications services.

129 2. Requiring any dealer of communications services to
 130 enter into or extend the term of a franchise or other agreement
 131 that requires the payment of a tax, charge, fee, or other
 132 imposition.

133 3. Adopting or enforcing any provision of any ordinance or
 134 agreement to the extent that such provision obligates a dealer
 135 of communications services to charge, collect, or pay to the
 136 public body a tax, charge, fee, or other imposition.

137
 138 Municipalities and counties may not negotiate the ~~Each~~
 139 ~~municipality and county retains authority to negotiate all terms~~
 140 ~~and conditions of a cable service franchise allowed by federal~~

141 ~~and state law except those~~ terms and conditions related to
 142 franchise fees or ~~and~~ the definition of gross revenues or other
 143 definitions or methodologies related to the payment or
 144 assessment of franchise fees on providers of cable services.

145 (c) This subsection does not apply to:

146 1. Local communications services taxes levied under this
 147 chapter.

148 2. Ad valorem taxes levied pursuant to chapter 200.

149 3. Occupational license taxes levied under chapter 205.

150 4. "911" service charges levied under chapter 365.

151 5. Amounts charged for the rental or other use of property
 152 owned by a public body which is not in the public rights-of-way
 153 to a dealer of communications services for any purpose,
 154 including, but not limited to, the placement or attachment of
 155 equipment used in the provision of communications services.

156 6. Permit fees of general applicability which are not
 157 related to placing or maintaining facilities in or on public
 158 roads or rights-of-way.

159 7. Permit fees related to placing or maintaining
 160 facilities in or on public roads or rights-of-way pursuant to s.
 161 337.401.

162 8. Any in-kind requirements, institutional networks, or
 163 contributions for, or in support of, the use or construction of
 164 public, educational, or governmental access facilities allowed
 165 under federal law and imposed on providers of cable service
 166 pursuant to any existing ordinance or an existing franchise
 167 agreement granted by each municipality or county, under which
 168 ordinance or franchise agreement service is provided prior to

169 July 1, 2007. Nothing in this subparagraph shall prohibit the
 170 ability of providers of cable service to recover such expenses
 171 as allowed under federal law.

172 9. Special assessments and impact fees.

173 10. Pole attachment fees that are charged by a local
 174 government for attachments to utility poles owned by the local
 175 government.

176 11. Utility service fees or other similar user fees for
 177 utility services.

178 12. Any other generally applicable tax, fee, charge, or
 179 imposition authorized by general law on July 1, 2000, which is
 180 not specifically prohibited by this subsection or included as a
 181 replaced revenue source in s. 202.20.

182 Section 4. Paragraphs (a), (e), and (f) of subsection (3)
 183 of section 337.401, Florida Statutes, are amended to read:

184 337.401 Use of right-of-way for utilities subject to
 185 regulation; permit; fees.--

186 (3)(a)~~1~~. Because of the unique circumstances applicable to
 187 providers of communications services, including, but not limited
 188 to, the circumstances described in paragraph (e) and the fact
 189 that federal and state law require the nondiscriminatory
 190 treatment of providers of telecommunications services, and
 191 because of the desire to promote competition among providers of
 192 communications services, it is the intent of the Legislature
 193 that municipalities and counties treat providers of
 194 communications services in a nondiscriminatory and competitively
 195 neutral manner when imposing rules or regulations governing the
 196 placement or maintenance of communications facilities in the

197 public roads or rights-of-way. Rules or regulations imposed by a
 198 municipality or county relating to providers of communications
 199 services placing or maintaining communications facilities in its
 200 roads or rights-of-way must be generally applicable to all
 201 providers of communications services and, notwithstanding any
 202 other law, may not require a provider of communications
 203 services, ~~except as otherwise provided in subparagraph 2.,~~ to
 204 apply for or enter into an individual license, franchise, or
 205 other agreement with the municipality or county as a condition
 206 of placing or maintaining communications facilities in its roads
 207 or rights-of-way. In addition to other reasonable rules or
 208 regulations that a municipality or county may adopt relating to
 209 the placement or maintenance of communications facilities in its
 210 roads or rights-of-way under this subsection, a municipality or
 211 county may require a provider of communications services that
 212 places or seeks to place facilities in its roads or rights-of-
 213 way to register with the municipality or county and to provide
 214 the name of the registrant; the name, address, and telephone
 215 number of a contact person for the registrant; the number of the
 216 registrant's current certificate of authorization issued by the
 217 Florida Public Service Commission, ~~or~~ the Federal Communications
 218 Commission, or the Department of State; and proof of insurance
 219 or self-insuring status adequate to defend and cover claims. For
 220 the purposes of this section, the term "communications service"
 221 includes "cable service" as defined in s. 610.103 and
 222 "competitive video programming services" as defined in s.
 223 610.117.

224 ~~2. Notwithstanding the provisions of subparagraph 1., a~~

225 ~~municipality or county may, as provided by 47 U.S.C. s. 541,~~
 226 ~~award one or more franchises within its jurisdiction for the~~
 227 ~~provision of cable service, and a provider of cable service~~
 228 ~~shall not provide cable service without such franchise. Each~~
 229 ~~municipality and county retains authority to negotiate all terms~~
 230 ~~and conditions of a cable service franchise allowed by federal~~
 231 ~~law and s. 166.046, except those terms and conditions related to~~
 232 ~~franchise fees and the definition of gross revenues or other~~
 233 ~~definitions or methodologies related to the payment or~~
 234 ~~assessment of franchise fees and permit fees as provided in~~
 235 ~~paragraph (c) on providers of cable services. A municipality or~~
 236 ~~county may exercise its right to require from providers of cable~~
 237 ~~service in-kind requirements, including, but not limited to,~~
 238 ~~institutional networks, and contributions for, or in support of,~~
 239 ~~the use or construction of public, educational, or governmental~~
 240 ~~access facilities to the extent permitted by federal law. A~~
 241 ~~provider of cable service may exercise its right to recover any~~
 242 ~~such expenses associated with such in-kind requirements, to the~~
 243 ~~extent permitted by federal law.~~

244 (e) The authority of municipalities and counties to
 245 require franchise fees from providers of communications
 246 services, with respect to the provision of communications
 247 services, is specifically preempted by the state, ~~except as~~
 248 ~~otherwise provided in subparagraph (a)2.,~~ because of unique
 249 circumstances applicable to providers of communications services
 250 when compared to other utilities occupying municipal or county
 251 roads or rights-of-way. Providers of communications services may
 252 provide similar services in a manner that requires the placement

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253 of facilities in municipal or county roads or rights-of-way or
254 in a manner that does not require the placement of facilities in
255 such roads or rights-of-way. Although similar communications
256 services may be provided by different means, the state desires
257 to treat providers of communications services in a
258 nondiscriminatory manner and to have the taxes, franchise fees,
259 and other fees paid by providers of communications services be
260 competitively neutral. Municipalities and counties retain all
261 existing authority, if any, to collect franchise fees from users
262 or occupants of municipal or county roads or rights-of-way other
263 than providers of communications services, and the provisions of
264 this subsection shall have no effect upon this authority. The
265 provisions of this subsection do not restrict the authority, if
266 any, of municipalities or counties or other governmental
267 entities to receive reasonable rental fees based on fair market
268 value for the use of public lands and buildings on property
269 outside the public roads or rights-of-way for the placement of
270 communications antennas and towers.

271 (f) Except as expressly allowed or authorized by general
272 law and except for the rights-of-way permit fees subject to
273 paragraph (c), a municipality or county may not levy on a
274 provider of communications services a tax, fee, or other charge
275 or imposition for operating as a provider of communications
276 services within the jurisdiction of the municipality or county
277 which is in any way related to using its roads or rights-of-way.
278 A municipality or county may not require or solicit in-kind
279 compensation, except as otherwise provided in s. 610.1075(2)
280 ~~subparagraph (a)2~~. Nothing in this paragraph shall impair any

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281 ordinance or agreement in effect on May 22, 1998, or any
 282 voluntary agreement entered into subsequent to that date, which
 283 provides for or allows in-kind compensation by a
 284 telecommunications company.

285 Section 5. Section 337.4061, Florida Statutes, is amended
 286 to read:

287 337.4061 Definitions; unlawful use of state-maintained
 288 road right-of-way by nonfranchised cable ~~television~~ services.--

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

290 (a) "Cable service" means:

291 1. The one-way transmission to subscribers of video
 292 programming or any other programming service; and

293 2. Subscriber interaction, if any, which is required for
 294 the selection or use of such video programming or other
 295 programming service.

296 (b) "Cable system" means a facility, consisting of a set
 297 of closed transmission paths and associated signal generation,
 298 reception, and control equipment that is designed to provide
 299 cable service which includes video programming and which is
 300 provided to multiple subscribers within a community, but such
 301 term does not include:

302 1. A facility that serves only to retransmit the
 303 television signals of one or more television broadcast stations;

304 2. A facility that serves ~~only~~ subscribers without using
 305 ~~in one or more multiple unit dwellings under common ownership,~~
 306 ~~control, or management, unless such facility or facilities use~~
 307 any public right-of-way;

308 3. A facility of a common carrier that is subject, in

309 whole or in part, to the provisions of Title II of the Federal
 310 Cable Act, except that such facility shall be considered a cable
 311 system other than for purposes of s. 621(c) of the Federal Cable
 312 Act to the extent such facility is used in the transmission of
 313 video programming directly to subscribers, unless the extent of
 314 such use is solely to provide interactive on-demand services; or

315 4. An open video system that complies with s. 653 of the
 316 Federal Cable Act; or

317 5.4. Any facilities of any electric utility used solely
 318 for operating its electric utility systems.

319 (c) "Franchise" means an initial authorization or renewal
 320 thereof issued by a franchising authority, whether such
 321 authorization is designated as a franchise, permit, license,
 322 resolution, contract, certificate, agreement, or otherwise,
 323 which authorizes the construction or operation of a cable
 324 system.

325 (d) "Franchising authority" means any governmental entity
 326 empowered by federal, state, or local law to grant a franchise.

327 (e) "Person" means an individual, partnership,
 328 association, joint stock company, trust, corporation, or
 329 governmental entity.

330 (f) "Video programming" means programming provided by or
 331 generally considered comparable to programming provided by a
 332 television broadcast station or cable system.

333 (2) It is unlawful to use the right-of-way of any state-
 334 maintained road, including appendages thereto, and also
 335 including, but not limited to, rest areas, wayside parks, boat-
 336 launching ramps, weigh stations, and scenic easements, to

337 provide for cable service over a cable system ~~purposes~~ within a
 338 geographic area subject to a valid existing franchise for cable
 339 service, unless the cable system using such right-of-way holds a
 340 franchise from a franchising authority ~~the municipality or~~
 341 ~~county~~ for the area in which the right-of-way is located.

342 (3) A violation of this section shall be deemed a
 343 violation of s. 337.406.

344 Section 6. Sections 610.102, 610.103, 610.104, 610.105,
 345 610.107, 610.1075, 610.108, 610.109, 610.1105, 610.1115,
 346 610.112, 610.113, 610.114, 610.115, 610.116, 610.117, 610.118,
 347 and 610.119, Florida Statutes, are created to read:

348 610.102 Authority to issue cable franchise.--The
 349 department shall be designated as the franchising authority,
 350 pursuant to 47 U.S.C. s. 522(10), for an ordinance or statutory
 351 franchise for the provision of cable service. A municipality or
 352 county may not grant a new franchise for the provision of cable
 353 service within its jurisdiction after the effective date of this
 354 act.

355 610.103 Definitions.--As used in this chapter, the term:

356 (1) "Cable service" means:

357 (a) The one-way transmission to subscribers of video
 358 programming or any other programming service; and

359 (b) Subscriber interaction, if any, that is required for
 360 the selection or use of such video programming or other
 361 programming service.

362 (2) "Cable service provider" means a person that provides
 363 cable service over a cable system.

364 (3) "Cable system" means a facility consisting of a set of

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365 closed transmission paths and associated signal generation,
366 reception, and control equipment that is designed to provide
367 cable service that includes video programming and that is
368 provided to multiple subscribers within a community, but such
369 term does not include:

370 (a) A facility that serves only to retransmit the
371 television signals of one or more television broadcast stations;

372 (b) A facility that serves subscribers without using any
373 public right-of-way;

374 (c) A facility of a common carrier that is subject, in
375 whole or in part, to the provisions of Title II of the Federal
376 Cable Act, except that such facility shall be considered a cable
377 system other than for purposes of s. 621(c) of the Federal Cable
378 Act only to the extent such facility is used in the transmission
379 of video programming directly to subscribers, unless the extent
380 of such use is solely to provide interactive on-demand services;

381 (d) An open video system that complies with s. 653 of the
382 Federal Cable Act; or

383 (e) Any facilities of any electric utility used solely for
384 operating its electric utility systems.

385 (4) "Certificateholder" means a cable service provider or
386 a competitive video programming services provider that has been
387 issued and holds an ordinance or statutory certificate of
388 franchise authority from the department.

389 (5) "Department" means the Department of State.

390 (6) "Franchise" or "franchise authority" means an initial
391 authorization or renewal of an authorization, regardless of
392 whether the authorization is designated as a franchise, permit,

393 license, resolution, contract, certificate, agreement, or
 394 otherwise, to construct and operate a cable system in the public
 395 right-of-way.

396 (7) "Incumbent cable service provider" means the cable
 397 service provider serving cable subscribers in a particular
 398 municipal or county franchise area on July 1, 2007, subject to
 399 an unexpired franchise agreement.

400 (8) "Public right-of-way" means the area on, below, or
 401 above a public roadway, highway, street, sidewalk, or alley,
 402 including, but not limited to, a municipal, county, state,
 403 district, or other public roadway, highway, street, sidewalk, or
 404 alley.

405 (9) "Video programming" means programming provided by, or
 406 generally considered comparable to programming provided by, a
 407 television broadcast station as set forth in 47 U.S.C. s.
 408 522(20).

409 610.104 Standard cable ordinance; ordinance certificate of
 410 franchise authority.--

411 (1) A municipality or county may enact a standard cable
 412 ordinance for the provision of cable service over a cable system
 413 within its jurisdiction within 90 days after a request by an
 414 entity or person, other than the incumbent cable service
 415 provider, seeking to provide cable service over a cable system
 416 in whole or in part within that municipality or county but in no
 417 event later than January 1, 2009. A municipality must, at least
 418 10 days prior to consideration on first reading, and a county
 419 must, at least 15 days prior to consideration at a public
 420 hearing, provide notice to the Secretary of State of a proposed

421 standard cable ordinance. The notice required by this subsection
422 must be published by the Secretary of State on a designated
423 Internet website.

424 (2) A standard cable ordinance shall contain each of the
425 terms and conditions set forth in s. 610.107 using the precise
426 language contained in that section. The standard cable ordinance
427 may contain any or all of the provisions in s. 610.1075 and
428 shall not impose any other terms or conditions upon a cable
429 service provider. If a municipality or county enacts a standard
430 cable ordinance within the 90-day period that complies with the
431 requirements of this section, an entity or person seeking to
432 provide cable service over a cable system in whole or in part
433 within that municipality or county shall file its application
434 for an ordinance certificate pursuant to the terms and
435 conditions set forth in s. 610.107 with the municipality or
436 county. Upon determining that an applicant has met the criteria
437 as set forth in s. 610.107, the municipality or county shall
438 immediately issue notice of compliance to the department,
439 whereupon the department shall issue an ordinance certificate of
440 franchise authority that contains all of the terms set forth in
441 s. 610.108(4) within 5 business days. The standard cable
442 ordinance enacted by a municipality or county pursuant to, and
443 in conformance with, the requirements of this chapter shall
444 supersede any existing cable ordinance enacted by the county or
445 municipality with regard to any cable service provider electing
446 to apply for or operating under a standard ordinance
447 certificate. A municipality or county may not change the terms
448 of any ordinance adopted pursuant to this section, except that

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449 the municipality or county may change terms adopted pursuant to
450 s. 610.1075 after a period of 10 years after the date of initial
451 enactment of the standard ordinance and every 10 years
452 thereafter, subject to the limits set forth in s. 610.1075(1)-
453 (7).

454 (3) Nothing in this act shall be construed to give any
455 local government or the department any authority over any
456 communications service other than cable service or competitive
457 video programming services whether offered on a common carrier
458 or private contract basis.

459 610.105 Statutory certificate.--In the event a
460 municipality or county fails to enact the standard cable
461 ordinance permitted by s. 610.104 within 90 days after a request
462 or before January 1, 2009, whichever is earlier, or fails to
463 provide notice of compliance with the department to allow the
464 department to issue an ordinance certificate pursuant to the
465 standard cable ordinance within the period set forth in s.
466 610.107(3), an entity or person seeking to provide cable service
467 over a cable system in whole or in part within that municipality
468 or county shall file for a statutory certificate of franchise
469 authority with the department as set forth in s. 610.108.

470 610.106 Eligibility.--An entity providing cable service
471 under an unexpired franchise agreement with a municipality or
472 county as of July 1, 2007 is not eligible to apply for an
473 ordinance or statutory certificate of franchise authority with
474 respect to such municipality or county until the franchise
475 agreement expires, except as provided by s. 610.109(2). An
476 entity providing cable service may seek an ordinance or

477 statutory certificate to provide service in areas where the
478 entity currently does not have an existing franchise agreement
479 as of July 1, 2007.

480 610.107 Required provisions of standard cable
481 ordinance.--A municipality or county electing to enact a
482 standard cable ordinance pursuant to s. 610.104 must adopt the
483 provisions set forth in subsections (1)-(11):

484 (1) An entity or person seeking to provide cable service
485 over a cable system located in whole or in part within the
486 applicable municipality or county must submit to the applicable
487 municipal or county agency an affidavit signed by an officer or
488 general partner of the applicant affirming:

489 (a) That the applicant has filed or will timely file with
490 the Federal Communications Commission all forms required by that
491 agency in advance of offering cable service in this state.

492 (b) That the applicant agrees to comply with all
493 applicable federal and state laws and regulations, to the extent
494 that such state laws and rules are not in conflict with or
495 superseded by the provisions of chapter 610 and s. 337.401,
496 Florida Statutes, or other applicable state law.

497 (c) That the applicant agrees to comply with all lawful
498 state laws and rules and municipal and county ordinances and
499 regulations regarding the placement and maintenance of
500 communications facilities in the public right-of-way that are
501 generally applicable to providers of communications services in
502 accordance with s. 337.401, Florida Statutes.

503 (d) A description of the service area for which the
504 applicant seeks certificate of franchise authority, which shall

505 be coextensive with municipal, county, or other political
506 boundaries. For applicants with existing communications
507 facilities, the service area shall be coextensive with any
508 provider's existing network boundaries.

509 (e) The location of the applicant's principal place of
510 business and the names of the applicant's principal executive
511 officers.

512 (f) That the applicant is authorized to do business in the
513 state.

514 (g) That the applicant has sufficient technical,
515 financial, and managerial capability to provide cable service
516 within the service area for which the applicant seeks a
517 certificate of franchise authority. At the time of filing the
518 affidavit, the applicant shall furnish its most recent
519 unqualified audited financial statement if a publicly available
520 audited financial report for the applicant or its parent entity
521 is not available.

522 (h) That neither the applicant nor any of its current
523 principal executive officers are under indictment or have been
524 convicted of a felony in this state.

525 (2) Before the 10th business day after an applicant for a
526 certificate of franchise authority submits the affidavit
527 described in subsection (1), the applicable municipal or county
528 agency shall notify the applicant whether the applicant's
529 affidavit is complete. If the applicable municipal or county
530 agency finds that the application is incomplete, the applicable
531 municipal or county agency must specify with particularity the
532 corrective action required and permit the applicant to amend the

533 application to cure any deficiency.

534 (3) The applicable municipal or county agency shall
535 provide a notice of compliance to the Department of State before
536 the 15th business day after receipt of an affidavit submitted by
537 an applicant pursuant to subsection (1), except that, if the
538 applicable municipal or county agency provides notice before the
539 10th business day after receipt of the affidavit that the
540 affidavit is not complete pursuant to subsection (2), the
541 applicable municipal or county agency shall submit a notice of
542 compliance to the Department of State within 5 business days
543 after receipt of an amended affidavit.

544 (4) After the Department of State issues an ordinance
545 certificate of franchise authority pursuant to s. 610.104, the
546 applicant shall have the right to provide cable service over a
547 cable system as requested in the affidavit and shall have the
548 right to construct, maintain, and operate facilities through,
549 upon, over, and under any public right-of-way or waters within
550 the applicable municipality or county.

551 (5) A certificateholder may include additional service
552 areas within the applicable municipality or county in its
553 current ordinance certificate by filing notice with the
554 applicable municipal or county agency and the Department of
555 State that reflects the new service area or areas to be served.

556 (6) The ordinance certificate is fully transferable to any
557 successor in interest to the applicant to which the certificate
558 is initially granted. A notice of transfer shall be filed with
559 the applicable municipal or county agency and the Department of
560 State within 14 business days following the completion of such

561 transfer.

562 (7) The certificate of franchise authority issued by the
 563 department may be terminated by the cable service provider by
 564 submitting notice to the applicable municipal or county agency
 565 and the Department of State.

566 (8) An applicant may challenge a denial of an application
 567 or any failure to act by the [applicable municipal or county
 568 agency] in a court of competent jurisdiction through a petition
 569 for a writ of mandamus.

570 (9) The applicable municipal or county agency may adopt a
 571 standard application form, in which case the application shall
 572 be on such form.

573 (10) For the purposes of this ordinance, the definitions
 574 set forth in s. 610.103 shall apply.

575 (11) After the effective date of the ordinance, a cable
 576 service provider operating under a franchise agreement granted
 577 by the applicable municipality or county prior to the effective
 578 date of the ordinance may elect to terminate its existing
 579 franchise agreement pursuant to s. 610.109 and obtain an
 580 ordinance franchise hereunder.

581 610.1075 Optional provisions of standard cable
 582 ordinance.--A municipality or county electing to enact a
 583 standard cable ordinance pursuant to s. 610.104 may include
 584 provisions that:

585 (1) Establish the number of public, educational, and
 586 governmental access channels that each cable service provider
 587 must provide, upon request, to the municipality or county, as
 588 follows:

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589 (a) A municipality or county may require an ordinance
590 certificateholder, within 180 days following a request from such
591 municipality or county, to designate a sufficient amount of
592 capacity on its network to allow the provision of the same
593 number of public, educational, and governmental access channels
594 or functional equivalent that a municipality or county has
595 activated under the incumbent cable service provider's franchise
596 agreement as of January 1, 2007. Upon the earlier of the
597 expiration or termination of the incumbent cable service
598 providers' franchise agreement, the maximum number of channels
599 or capacity shall be as set forth in paragraph (b). For the
600 purposes of this section, a public, educational, or governmental
601 channel is deemed activated if the channel is being used for
602 public, educational, or governmental programming within the
603 municipality or county for at least 8 hours per day of locally
604 produced original programming, excluding without limitation
605 repeat and character-generated programming, for any six
606 consecutive-month period. The municipality or county may
607 require, within 180 days following a request from such
608 municipality or county, additional channels or functional
609 capacity up to the equivalent permitted under the incumbent
610 cable service provider's franchise agreement as of January 1,
611 2007, until such agreement expires or is terminated.

612 (b) If a municipality or county did not have public,
613 educational, or governmental access channels activated under the
614 incumbent cable service provider's franchise agreement as of
615 January 1, 2007, the municipality or county may require the
616 ordinance certificateholder to furnish, not later than 180 days

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617 following a request by the municipality or county:

618 1. Up to three public, educational, or governmental
619 channels or capacity equivalent for a municipality or county
620 with a population of at least 50,000.

621 2. Up to two public, educational, or governmental channels
622 or capacity equivalent for a municipality or county with a
623 population of less than 50,000.

624

625 The limits in sub-subparagraphs 1. and 2. constitute the total
626 number of public, educational, or governmental channels that may
627 be designated on any cable service provider's network using a
628 single headend, or on all commonly owned cable service
629 provider's networks that share a common headend, regardless of
630 the number of cities or counties served from such headend,
631 provided that the populations of all cities and counties served
632 by such provider's networks shall be aggregated for purposes of
633 applying such limits.

634 (c) A cable service provider may locate any public,
635 educational, or governmental access channel on any tier of
636 service offered that is viewed by at least 40 percent of the
637 provider's subscribers.

638 (d) All other provisions of s. 610.113 shall apply to the
639 provision of public, educational, or governmental access
640 channels by an ordinance certificateholder.

641 (2) Provide that if the municipality or county was
642 entitled on July 1, 2007, to receive recurring or nonrecurring
643 cash or other payments to support the capital or operating costs
644 of public, educational, and governmental access facilities

645 pursuant to the terms of the incumbent cable service provider's
 646 franchise, the municipality or county may require an ordinance
 647 certificateholder to make the same cash or other payments until
 648 the earlier of the termination or expiration date of the
 649 incumbent cable service provider's franchise agreement existing
 650 as of July 1, 2007. Upon expiration or termination of the
 651 incumbent cable service provider's franchise, any cash or other
 652 payments shall be prohibited.

653 (3) Require each ordinance certificateholder, if requested
 654 pursuant to a bona fide order for cable service, to make cable
 655 service available at any building located within 125 feet of a
 656 certificateholder's existing distribution plant, provided such
 657 buildings are used for municipal or county purposes, including,
 658 but not limited to, emergency operations centers, fire stations,
 659 and public schools within the area described in its application
 660 including any amendments to such application. The municipality
 661 or county shall be responsible for any connectivity beyond the
 662 first 125 feet. The municipality or county shall be responsible
 663 for obtaining authority for the certificateholder to gain access
 664 to any leased facility to provide the services described in this
 665 section on terms that are reasonably acceptable to the
 666 certificateholder and at no cost to the certificateholder.

667 (4) Identify and cross-reference other municipal and
 668 county ordinances and regulations regarding the placement and
 669 maintenance of communications facilities in the public right-of-
 670 way with which each ordinance certificateholder must comply. Any
 671 other ordinance and regulation identified and cross-referenced
 672 in the standard cable ordinance shall be generally applicable to

673 all providers of communications services in accordance with s.
 674 337.401.

675 (5) Require an incumbent cable service provider to comply
 676 with customer service requirements reasonably comparable to, and
 677 that do not exceed, the standards in 47 C.F.R. s. 76.309(c).
 678 Such requirements shall only apply until there are two or more
 679 providers offering cable service or competitive video
 680 programming services in the relevant service area. In addition,
 681 the municipality or county may require that cable service
 682 quality complaints from customers of an ordinance
 683 certificateholder within the jurisdiction of the municipality or
 684 county be filed with an appropriate municipal or county office
 685 or agency. This subsection shall not be construed to permit the
 686 municipality or county to impose customer service standards in
 687 conflict with this section.

688 610.108 Application process; statutory certificate of
 689 franchise authority.--When a person or entity applies for a
 690 statutory certificate of franchise authority under s. 610.105,
 691 the following provisions apply:

692 (1) Before the 10th business day after an applicant for a
 693 certificate of franchise authority submits the affidavit
 694 described in subsection (2), the department shall notify the
 695 applicant whether the applicant's affidavit is complete. If the
 696 department denies the application, the department shall specify
 697 with particularity the reasons for the denial and permit the
 698 applicant to amend the application to cure any deficiency. The
 699 department shall act upon such amended application within 10
 700 business days.

701 (2) The department may establish a standard application
 702 form that shall be limited to the specific information required
 703 under subsection (3), in which case the application shall be on
 704 such form and must be accompanied by a one-time application fee
 705 established by the department, not to exceed \$500 for the
 706 applicant's initial application and no more than \$50 for each of
 707 the applicant's additional applications. The fee shall be based
 708 on the costs incurred by the department in performing its duties
 709 under this chapter For purposes of this subsection, a parent
 710 company may file a single application covering itself and all of
 711 its subsidiaries and affiliates intending to provide cable
 712 service in the service areas throughout the state as described
 713 in paragraph (3)(d), but the entity actually providing such
 714 service in a given area shall otherwise be considered the
 715 certificateholder under this act.

716 (3) The department shall issue a certificate of franchise
 717 authority to offer cable service before the 30th business day
 718 after receipt of a completed affidavit submitted by an applicant
 719 and signed by an officer or general partner of the applicant
 720 affirming:

721 (a) That the applicant has filed or will timely file with
 722 the Federal Communications Commission all forms required by that
 723 agency in advance of offering cable service in this state.

724 (b) That the applicant agrees to comply with all
 725 applicable federal and state laws and regulations, to the extent
 726 that such state laws and rules are not in conflict with or
 727 superseded by the provisions of this chapter or other applicable
 728 state law.

729 (c) That the applicant agrees to comply with all lawful
730 state laws and rules and municipal and county ordinances and
731 regulations regarding the placement and maintenance of
732 communications facilities in the public right-of-way that are
733 generally applicable to providers of communications services in
734 accordance with s. 337.401.

735 (d) A description of the service area for which the
736 applicant seeks a certificate of franchise authority, which
737 shall be coextensive with municipal, county, or other political
738 boundaries. For applicants with existing communications
739 facilities, the service area shall be coextensive with any
740 provider's existing network boundaries.

741 (e) The location of the applicant's principal place of
742 business and the names of the applicant's principal executive
743 officers.

744 (f) That the applicant is authorized by the department to
745 transact business in this state.

746 (g) That the applicant has sufficient technical,
747 financial, and managerial capability to provide cable service
748 within the service area for which the applicant seeks a
749 certificate of franchise authority. At the time of the filing of
750 the affidavit, the applicant shall furnish its most recent
751 unqualified audited financial statement if a publicly available
752 audited financial report for the applicant or its parent entity
753 is not available.

754 (h) That neither the applicant nor any of its current
755 principal executive officers are under indictment nor have been
756 convicted of a felony in this state.

757 (4) If the department fails to act on the application
758 within 30 business days after receiving the application, the
759 application shall be deemed granted by the department without
760 further action.

761 (5) The certificate of franchise authority issued by the
762 department shall contain:

763 (a) A grant of authority to provide cable service over a
764 cable system as requested in the application.

765 (b) A grant of authority to construct, maintain, and
766 operate facilities through, upon, over, and under any public
767 right-of-way.

768 (c) A statement that the grant of authority is subject to
769 lawful operation of the cable system to provide cable service by
770 the applicant or its successor in interest.

771 (6) A certificateholder that seeks to include additional
772 service areas in its current certificate shall file notice with
773 the department that reflects the new service area or areas to be
774 served consistent with the requirements of paragraph (3)(d).

775 (7) The certificate of franchise authority issued by the
776 department is fully transferable to any successor in interest to
777 the applicant to which the certificate is initially granted. A
778 notice of transfer shall be filed with the department and the
779 relevant municipality or county within 14 business days
780 following the completion of such transfer.

781 (8) The certificate of franchise authority issued by the
782 department may be terminated by the cable service provider by
783 submitting notice to the department.

784 (9) An applicant may challenge a denial of an application

785 by the department in a court of competent jurisdiction through a
 786 petition for a writ of mandamus.

787 (10) The department may adopt any procedural rules and
 788 regulations pursuant to ss. 120.536(1) and 120.54 necessary to
 789 implement this section. Failure of an applicant to comply with
 790 procedural rules and regulations adopted by the department to
 791 implement this section shall not be a basis for denial of a
 792 certificate if the affidavit is submitted before the department
 793 adopts such procedural rules and regulations.

794 (11) The department may revoke an ordinance or statutory
 795 certificate of franchise authority for any area as to which a
 796 court of competent jurisdiction finds, pursuant to s. 610.117,
 797 that a certificateholder is in noncompliance with the
 798 requirements of this chapter after notice and a reasonable time
 799 to cure the noncompliance.

800 610.109 Eligibility of incumbent cable service provider
 801 for ordinance or statutory certificate of franchise authority in
 802 areas where provider has an existing franchise.--A cable service
 803 provider that has an existing, unexpired franchise to provide
 804 cable service with respect to a municipality or county as of
 805 July 1, 2007, may seek an ordinance or statutory certificate of
 806 franchise authority under this chapter as to that municipality
 807 or county upon the earliest of:

808 (1) The expiration date of the existing franchise
 809 agreement;

810 (2) January 1, 2009;

811 (3) The date on which such municipality or county adopts a
 812 standard ordinance pursuant to s. 610.104; or,

813 (4) The date any cable service provider or competitive
 814 video programming services provider receives a statutory
 815 certificate of franchise authority to serve all or portions of
 816 that municipality or county under s. 610.108. An incumbent cable
 817 service provider may terminate its existing franchise under this
 818 subsection by providing written notice to the Secretary of State
 819 and the affected municipality or county within 180 days after
 820 becoming eligible to elect to terminate it existing franchise.
 821 The municipal or county franchise is terminated on the date the
 822 ordinance or statutory certificate of franchise authority is
 823 granted.

824 610.1105 Franchise fee prohibited.--Except as otherwise
 825 provided in this chapter, the department may not impose any
 826 taxes, fees, charges, or other impositions on a cable service
 827 provider as a condition for the issuance of an ordinance or
 828 statutory certificate of franchise authority. Except as
 829 otherwise provided in this chapter, no municipality or county
 830 may impose any taxes, fees, charges, or other exactions on
 831 certificateholders in connection with use of public right-of-way
 832 as a condition of a certificateholder doing business in the
 833 municipality or county, or otherwise, except such taxes, fees,
 834 charges, or other exactions permitted by chapter 202, s.
 835 337.401(6), and this chapter.

836 610.1115 Customer service standards.--

837 (1) Each cable service provider shall comply with the
 838 customer service standards in 47 C.F.R. s. 76.309(c) until there
 839 are two or more providers offering cable service or competitive
 840 video programming service in the relevant service area.

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841 (2) The Department of Agriculture and Consumer Services
842 shall receive service quality complaints from customers of a
843 statutory certificateholder. The Department of Agriculture and
844 Consumer Services may adopt any procedural rules pursuant to ss.
845 120.536(1) and 120.54 necessary to implement this section.

846 (3) The Department of Agriculture and Consumer Services
847 shall address customer service complaints expeditiously by
848 assisting with the resolution of such complaints between the
849 complainant and the certificateholder.

850 610.112 Public, educational, and governmental access
851 channels.--

852 (1) A certificateholder, not later than 180 days following
853 a request by a municipality or county within whose jurisdiction
854 the certificateholder is providing cable service, shall
855 designate a sufficient amount of capacity on its network to
856 allow the provision of public, educational, and governmental
857 access channels for noncommercial programming as set forth in
858 this section and in a municipal or county franchise pursuant to
859 s. 610.1075(1).

860 (2) A certificateholder shall designate a sufficient
861 amount of capacity on its network to allow the provision of the
862 same number of public, educational, and governmental access
863 channels or functional equivalent that a municipality or county
864 has activated under the incumbent cable service provider's
865 franchise agreement as of January 1, 2007, or the number of
866 channels or capacity set forth in paragraphs (3) (a) and (b) and
867 as limited by s. 610.1075(1). For the purposes of this section,
868 a public, educational, or governmental channel is deemed

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869 activated if the channel is being used for public, educational,
870 or governmental programming within the municipality or county
871 for at least 8 hours per day of locally produced original
872 programming, excluding without limitation repeat and character-
873 generated programming, for any 6 consecutive-month period. The
874 municipality or county may request additional channels or
875 functional equivalent permitted under the incumbent cable
876 service provider's franchise agreement as of January 1, 2007, as
877 limited by s. 610.1075(1).

878 (3) (a) If a municipality or county did not have public,
879 educational, or governmental access channels activated under the
880 incumbent cable service provider's franchise agreement as of
881 July 1, 2007, not later than 12 months following a request by
882 the municipality or county within whose jurisdiction a
883 certificateholder is providing cable service, the cable service
884 provider shall furnish:

885 1. Up to three public, educational, or governmental
886 channels or capacity equivalent for a municipality or county
887 with a population of at least 50,000.

888 2. Up to two public, educational, or governmental channels
889 or capacity equivalent for a municipality or county with a
890 population of less than 50,000.

891 (b) The limits in subparagraphs (a)1. and 2. shall
892 constitute the total number of public, educational, or
893 governmental channels that may be designated on any cable
894 service provider's network using a single headend, or on all
895 commonly owned cable service provider's networks that share a
896 common headend, regardless of the number of cities or counties

897 served from such headend; provided further, that the populations
 898 of all cities and counties served by such provider's networks
 899 shall be aggregated for purposes of applying these limits.

900 (c) A cable service provider may locate any public,
 901 educational, or governmental access channel on any tier of
 902 service offered that is viewed by at least 40 percent of the
 903 provider's subscribers.

904 (4) Any public, educational, or governmental channel
 905 provided pursuant to this section that is not programmed by the
 906 municipality or county for at least 8 hours a day of locally
 907 produced original programming, not excluding without limitation
 908 repeat and character-generated programming, for any six
 909 consecutive week period shall no longer be made available to the
 910 municipality or county but may be programmed at the cable
 911 service provider's discretion.

912 (5) The operation of any public, educational, or
 913 governmental access channel or functional equivalent provided
 914 under this section shall be the responsibility of the
 915 municipality or county receiving the benefit of such channel or
 916 capacity equivalent, and a certificateholder bears only the
 917 responsibility for the transmission of such channel content. A
 918 certificateholder shall be responsible for providing the
 919 connectivity to each public, educational, or governmental access
 920 channel distribution point up to the first 125 feet from the
 921 certificateholder's activated cable transmission system. The
 922 municipality or county shall be responsible for any and all
 923 connectivity beyond the first 125 feet.

924 (6) The municipality or county shall ensure that all

925 transmissions, content, or programming to be transmitted over a
926 channel or facility by a certificateholder are provided or
927 submitted to the cable service provider in a manner or form that
928 is capable of being accepted and transmitted by a provider
929 without any requirement for additional alteration or change in
930 the content by the provider over the provider's network and is
931 compatible with the technology or protocol used by the cable
932 service provider to deliver services. The provision of public,
933 educational, or governmental content to the provider constitutes
934 authorization for the provider to carry such content, including,
935 at the provider's option, authorization to carry the content
936 beyond the jurisdictional boundaries of the municipality or
937 county.

938 (7) Where technically feasible, a certificateholder and an
939 incumbent cable service provider shall use reasonable efforts to
940 interconnect their cable systems for the purpose of providing
941 public, educational, and governmental programming.

942 Interconnection may be accomplished by direct cable, microwave
943 link, satellite, or other reasonable method of connection. The
944 party seeking interconnection shall pay the reasonable costs
945 associated with establishing and maintaining such
946 interconnection.

947 (8) A certificateholder is not required to interconnect
948 for, or otherwise transmit, public, educational, and
949 governmental content that is branded with the logo, name, or
950 other identifying marks of another cable service provider, and a
951 municipality or county may require a cable service provider to
952 remove its logo, name, or other identifying marks from public,

953 educational, and governmental content that is to be made
 954 available to another provider.

955 (9) A court of competent jurisdiction shall have exclusive
 956 jurisdiction to enforce any requirement under this section.

957 610.113 Nondiscrimination by municipality or county.--

958 (1) A municipality or county shall allow a
 959 certificateholder to install, construct, and maintain a network
 960 within a public right-of-way and shall provide a
 961 certificateholder with nondiscriminatory and competitively
 962 neutral access to the public right-of-way in accordance with the
 963 provisions of s. 337.401. All use of a public right-of-way by a
 964 certificateholder is nonexclusive.

965 (2) A municipality or county may not discriminate against
 966 a certificateholder regarding:

967 (a) The authorization or placement of a network in a
 968 public right-of-way;

969 (b) Access to a building or other property; or

970 (c) Utility pole attachment terms.

971 (3) Except as expressly provided in this chapter, nothing
 972 contained in this chapter shall be construed to limit or
 973 abrogate the municipality's or county's authority over the use
 974 of public right-of-way under its jurisdiction, as set forth in
 975 s. 337.401(3)(a).

976 610.114 Limitation on local authority.--

977 (1) A municipality or county may not impose additional
 978 requirements on a certificateholder, including, but not limited
 979 to, financial, operational, and administrative requirements,
 980 except as expressly permitted by this chapter. A municipality or

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981 county may not impose on activities of a certificateholder a
982 requirement:

983 (a) That particular business offices be located in the
984 municipality or county;

985 (b) Regarding the filing of reports and documents with the
986 municipality or county that are not required by state or federal
987 law and that are not related to the use of the public right-of-
988 way. Reports and documents other than schematics indicating the
989 location of facilities for a specific site that are provided in
990 the normal course of the municipality's or county's permitting
991 process, that are authorized by s. 337.401 for communications
992 services providers, or that are otherwise required in the normal
993 course of such permitting process shall not be considered
994 related to the use of the public right-of-way for communications
995 services providers. A municipality or county may not request
996 information concerning the capacity or technical configuration
997 of a certificateholder's facilities;

998 (c) For the inspection of a certificateholder's business
999 records; or

1000 (d) For the approval of transfers of ownership or control
1001 of a certificateholder's business, except a municipality or
1002 county may require a certificateholder to provide notice of a
1003 transfer within a reasonable time period.

1004 (2) Notwithstanding any other provision of law, a
1005 municipality or county may require the issuance of a permit in
1006 accordance with and subject to s. 337.401 to a certificateholder
1007 that is placing and maintaining facilities in or on a public
1008 right-of-way in the municipality or county. In accordance with

1009 s. 337.402, the permit may require the permitholder to be
 1010 responsible, at the permitholder's expense, for any damage
 1011 resulting from the issuance of such permit and for restoring the
 1012 public right-of-way to a substantially similar condition to that
 1013 of the public right-of-way before installation of such
 1014 facilities. The terms of the permit shall be consistent with
 1015 construction permits issued to other providers of communications
 1016 services placing or maintaining communications facilities in a
 1017 public right-of-way.

1018 610.115 Discrimination prohibited.--

1019 (1) The purpose of this section is to prevent
 1020 discrimination among potential residential subscribers.

1021 (2) Pursuant to 47 U.S.C. s. 541(a)(3), a
 1022 certificateholder may not deny access to service to any group of
 1023 potential residential subscribers because of the income of the
 1024 residents in the local area in which such group resides.

1025 (3) An affected person may seek enforcement of the
 1026 requirements provided by subsection (2) by initiating a
 1027 proceeding with the Department of Agriculture and Consumer
 1028 Services pursuant to s. 570.544.

1029 (4) For purposes of determining whether a
 1030 certificateholder has violated subsection (2), the
 1031 certificateholder shall have a reasonable time not to exceed 3
 1032 years to deploy service pursuant to 47 U.S.C. s. 541(a)(4)(A) to
 1033 those customers within the service areas designated in s.
 1034 610.107(1)(d) and (5) or s. 610.108(3)(d) and (5). Except for
 1035 satellite service, a competitive video service provider may
 1036 satisfy the requirements of this section through the use of

1037 alternative technology that offers service, functionality, and
 1038 content which is demonstrably similar to that provided through
 1039 the provider's video service system and may include a technology
 1040 that does not require the use of any public right-of-way. The
 1041 technology used to comply with the requirements of this section
 1042 shall be subject to all the requirements of this act. In no
 1043 event shall a cable service provider be required to offer or
 1044 provide service to an end user residing in an area with a
 1045 density of less than 20 homes per mile from the provider's
 1046 nearest distribution plant.

1047 (5) The Department of Agriculture and Consumer Services
 1048 may adopt any procedural rules pursuant to ss. 120.536(1) and
 1049 120.54 necessary to implement this section.

1050 610.116 Compliance.--If a certificateholder is found by a
 1051 court of competent jurisdiction to not comply with the
 1052 requirements of this chapter, the certificateholder shall have a
 1053 reasonable period of time, as specified by the court, to cure
 1054 such noncompliance.

1055 610.117 Applicability to competitive video programming
 1056 services.--A provider of competitive video programming services
 1057 shall apply for and obtain an ordinance or statutory certificate
 1058 of franchise authority under ss. 610.102-610.117, including all
 1059 rights and obligations associated therewith, before providing
 1060 service in the state, notwithstanding that competitive video
 1061 programming service may not be a cable service as defined s.
 1062 610.103. For purposes of ss. 610.102-610.117, the term
 1063 "competitive video programming services" means video programming
 1064 provided through wireline facilities located at least in part of

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1065 the public right-of-way without regard to delivery technology,
 1066 including Internet protocol technology, provided that this
 1067 definition does not include any video programming service
 1068 provided by a commercial mobile service provider defined in 47
 1069 U.S.C. s. 322(b).

1070 610.118 Enforcement limitations.--Notwithstanding any of
 1071 the provisions of ss. 610.102-610.116, no franchising authority
 1072 may enforce any term, condition, or requirement of any franchise
 1073 agreement that is more burdensome than the terms, conditions, or
 1074 requirements imposed on any other certificateholder whether by
 1075 franchise agreement, ordinance, or statutory certificate.

1076 610.119 Severability.--If any provision of ss. 610.102-
 1077 610.117 or the application thereof to any person or circumstance
 1078 is held invalid, such invalidity shall not affect other
 1079 provisions or application of ss. 610.102-610.117 that can be
 1080 given effect without the invalid provision or application, and
 1081 to this end the provisions of ss. 610.102-610.116 are severable.
 1082 If an incumbent cable service provider is denied its legal right
 1083 to terminate its existing cable franchise agreement under
 1084 section 610.109(2), any certificateholder authorized to provide
 1085 or providing cable services within all or parts of the affected
 1086 service areas shall also comply with the terms and conditions
 1087 applicable to the incumbent cable service provider until the
 1088 incumbent's existing cable franchise agreement expires or is
 1089 terminated, whichever event occurs earlier.

1090 Section 7. Section 364.1605, Florida Statutes, is created
 1091 to read:

1092 364.1605 Voice competition.--

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1093 (1) In addition to the duties established under this
1094 chapter, an entity that is an incumbent local exchange carrier,
1095 as defined in 47 U.S.C. s. 251(h), as of July 1, 2007, and any
1096 affiliate of such entity that provides wireline voice service
1097 within the service territory of such incumbent local exchange
1098 carrier, regardless of the technology, shall owe:

1099 (a) The duty to establish physical connections with its
1100 wireline facilities pursuant to s. 201 of the Communications Act
1101 of 1934 and the rules of the Federal Communications Commission
1102 adopted under that section.

1103 (b) The duties owed by an incumbent local exchange carrier
1104 to providers of telecommunications services, telephone exchange
1105 service, and telephone toll service with respect to its wireline
1106 facilities as provided in 47 U.S.C. s. 251 and the rules of the
1107 Federal Communications Commission adopted under that section, to
1108 any other carrier and to any facilities-based provider of
1109 Internet protocol enabled voice service. Interconnection with
1110 such entity's network may be direct or indirect and shall be at
1111 the most efficient point or points within that network and in
1112 the most efficient format, as determined by the requesting
1113 carrier or provider.

1114 (2) Requests by such other carrier or provider for
1115 interconnection, services, or network elements from an incumbent
1116 local exchange carrier shall be subject to the procedures,
1117 requirements, and pricing standards of 47 U.S.C. s. 252.

1118 (3) A telecommunications company may use interconnection,
1119 services, and network elements obtained from an incumbent local
1120 exchange carrier, including from a rural telephone company or

1121 small local exchange telecommunications company, pursuant to 47
 1122 U.S.C. ss. 251 and 252 to provide wholesale telecommunications
 1123 and telecommunications service to a provider of Internet
 1124 protocol enabled voice service and exchange traffic between such
 1125 provider and the public switched network.

1126 (4) For purposes of this section, the term "facilities-
 1127 based provider of Internet protocol enabled voice service" means
 1128 an entity that provides voice-over-Internet protocol as that
 1129 term is defined in federal law over a physical facility which
 1130 connects to the end user's location and which such entity or an
 1131 affiliate of such entity owns or over which such entity or
 1132 affiliate has exclusive use. An entity or affiliate of such
 1133 entity shall be considered a facilities-based provider of
 1134 Internet protocol enabled voice service only in those geographic
 1135 areas where such physical facilities are located.

1136 Section 8. Section 166.046, Florida Statutes, is repealed.

1137 Section 9. Paragraph (a) of subsection (3) of section
 1138 350.81, Florida Statutes, is amended to read:

1139 350.81 Communications services offered by governmental
 1140 entities.--

1141 (3) (a) A governmental entity that provides a cable service
 1142 shall comply with the Cable Communications Policy Act of 1984,
 1143 47 U.S.C. ss. 521 et seq., the regulations issued by the Federal
 1144 Communications Commission under the Cable Communications Policy
 1145 Act of 1984, 47 U.S.C. ss. 521 et seq., and all applicable state
 1146 and federal rules and regulations, including, but not limited
 1147 to, ~~s. 166.046~~ and those provisions of chapters 202, 212, and
 1148 337, and 610 which apply to a provider of the services.

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1149 Section 10. Section 364.0361, Florida Statutes, is amended
1150 to read:

1151 364.0361 Local government authority; nondiscriminatory
1152 exercise.--A local government shall treat each
1153 telecommunications company in a nondiscriminatory manner when
1154 exercising its authority to grant franchises to a
1155 telecommunications company or to otherwise establish conditions
1156 or compensation for the use of rights-of-way or other public
1157 property by a telecommunications company. A local government may
1158 not directly or indirectly regulate the terms and conditions,
1159 including, but not limited to, the operating systems,
1160 qualifications, services, service quality, service territory,
1161 and prices, applicable to or in connection with the provision of
1162 any voice-over-Internet protocol, regardless of the platform,
1163 provider, or protocol, broadband or information service. This
1164 section does not relieve a provider from any obligations under
1165 ~~s. 166.046~~ or s. 337.401.

1166 Section 11. This act shall take effect July 1, 2007.