STATE OF ARIZONA
SENATE
FIFTY-THIRD LEGISLATURE
FIRST REGULAR SESSION
2017

CHAPTER 205

SENATE BILL 1214

AN ACT

AMENDING SECTION 9-506, ARIZONA REVISED STATUTES; AMENDING SECTION 9-506, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTIONS 9-582 AND 9-584, ARIZONA REVISED STATUTES; RELATING TO PUBLIC UTILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-506, Arizona Revised Statutes, is amended to read:

9-506. Authority to issue license; limitations; permits for Wi-Fi radio equipment; definitions

A. For the purpose of authorizing and regulating the construction, operation and maintenance of cable television systems, the licensing authority of a city, including a charter city, or town for an incorporated area, or the licensing authority of the county for unincorporated areas, either individually or jointly by intergovernmental contract, may issue a license to any person to use public streets, roads and alleys and shall impose conditions, restrictions and limitations on the use of public streets, roads and alleys and on the construction, operation and maintenance of cable television systems.

B. Subject to the limitations of this section, a licensing authority may adopt resolutions or ordinances implementing and controlling the license or joint license, issue a license containing other terms and conditions and impose a license fee on gross revenues. In addition to the limitations of this section, the license is subject to the limits established by the communications act of 1934, as amended (47 United States Code sections 151 through 615b) and the federal communications commission.

C. Other than the license fee on gross revenues authorized by this article and transaction privilege taxes as provided in this subsection, a licensing authority may not levy a tax, rent, fee or charge, however denominated, on a cable operator for the use of the public streets, roads or alleys, including the use authorized by subsection I of this section. This subsection does not prohibit a licensing authority from levying fees and charges for microcell equipment on a cable operator OR ITS AFFILIATES FOR MICROCELL EQUIPMENT pursuant to section 9-584 without an offset for license fees. In addition, the following apply:

1. Access channel support except for in-kind services or payments as provided in subsection D of this section.
2. Rental, application, construction, permit, inspection, inconvenience and other fees and charges related to a cable operator's use of the public streets, roads and alleys, including the use authorized by subsection I of this section. This subsection does not prohibit a licensing authority from levying fees and charges for microcell equipment on a cable operator OR ITS AFFILIATES FOR MICROCELL EQUIPMENT pursuant to section 9-584 without an offset for license fees. In addition, the following apply:
   (a) Any transaction privilege taxes otherwise authorized by law to be levied on the business of providing cable service or in relation to use of the public streets, roads or alleys to provide cable service may be levied on a cable operator if the taxes are levied only on gross revenues and the rate of the taxes is subject to paragraph SUBDIVISION (c) of this subsection PARAGRAPH. This subsection does not authorize the
imposition of transaction privilege taxes on interstate telecommunications services.

(b) The license fee and any transaction privilege taxes levied on gross revenues constitute a franchise fee within the meaning of 47 United States Code section 542(g)(1).

(c) Under no circumstances may the total of the rates of the license fee and of any transaction privilege taxes on gross revenues levied or assessed by a licensing authority for the privilege of providing cable service and related use of the public streets, roads or alleys to provide cable service exceed a rate of five percent, except during the transition period for certain licenses as provided in subsection H of this section.

(d) A cable operator shall pass on to subscribers any reduction in the amount of fees, taxes or other charges paid by a cable operator and itemized to subscribers that results from the implementation of the amendment to this section effective on September 21, 2006.

D. A licensing authority may not require a cable operator to provide in-kind services, make in-kind payments or pay a fee in addition to the monetary license fee levied or assessed as provided in this section as part of or as a condition of issuing a license to provide cable service, except that:

1. A licensing authority may require a cable operator to provide channel capacity to transmit programming over which the cable operator exercises no editorial control except as authorized by 47 United States Code section 531(e). The channel capacity shall be limited to not more than two channels of public, educational or governmental access programming in the basic service tier of the cable television system and not more than two channels of noncommercial governmental programming, at least one of which may be programmed by the federal government, in the digital programming tier of the cable television system. If channel capacity is required, the programming shall be specified in the license and the cable operator may require that the channels regularly display an unobtrusive logo or other suitable identifier of the cable operator as set forth in the license.

2. A licensing authority may require a cable operator to incur costs and expenses to provide, maintain and operate facilities and equipment of the cable television system, including facilities and equipment for signal carriage, processing, reformatting and interconnection:

   (a) To connect the cable television system, as it may be relocated from time to time, to transmit programming to and from existing locations of public, educational or governmental access facilities and to allow monitoring of access programming at the facilities.
(b) To transmit public, educational and governmental access
channels to subscribers with the same prevailing quality, functionality
and identification as other channels.

3. A licensing authority may require a cable operator to provide
the basic service tier of cable service at no monthly service charge to
offices and facilities of the licensing authority.

4. The value of any channel capacity provided pursuant to paragraph
1 of this subsection, the costs and expenses incurred pursuant to
paragraph 2 of this subsection and the value of basic service provided
pursuant to paragraph 3 of this subsection may not be offset against the
license fee levied or assessed under this section.

E. This section does not prohibit a cable operator from agreeing to
provide in-kind services or make in-kind payments in the area of
jurisdiction that are prohibited by subsection D of this section if the
agreement with the licensing authority is not part of, or entered into as
a condition of being issued, a new, renewed or amended license to provide
cable service. An agreement that requires in-kind cable service or
payments shall set forth the total annual fair market value of the in-kind
cable service and payments, which shall be less than or equal to and
offset against the license fee levied or assessed annually pursuant to
this section. The license shall authorize the cable operator to retain
license fees and taxes collected from its subscribers in the amount of
this offset. In-kind cable services and payments include any channel
capacity and all capital costs and charges for or in support of the use of
any channel capacity that the cable operator agrees to provide under this
subsection.

F. Notwithstanding subsection C of this section, a licensing
authority may require that a cable operator:

1. Bear reasonable costs that are associated with damage caused to
public streets, roads and alleys by construction, maintenance and
operation of its facilities in the public streets, roads and alleys and
that are imposed on a competitively neutral and nondiscriminatory basis in
relation to costs borne by telecommunications corporations under section
9-582, subsection C.

2. Pay fines, fees, charges or damages for breach of the terms and
conditions of the license.

G. This section does not affect the authority of a licensing
authority to manage the public streets, roads and alleys within its
boundaries or to exercise its police powers.

H. A license that is in effect on September 21, 2006, including one
that is later renewed or extended for a term that begins before July 1,
2007, is enforceable in accordance with its terms and conditions as of
July 1, 2007 and is not subject to the provisions of the amendment to this
section effective on September 21, 2006. If a license that is in effect
on September 21, 2006 is later extended or renewed for a term that begins
after June 30, 2007, the extended or renewed license is subject to the provisions of the amendment to this section effective on September 21, 2006 and the amendment to this section effective on September 19, 2007, effective on the first day of the renewal or extension term, unless the term begins before January 1, 2008, in which case the limitation in subsection C, paragraph 3-2, SUBDIVISION (c) of this section on the rates of the license fee and of any transaction privilege taxes on gross revenues is:

1. Five percent, if the gross effective rate is five percent or less.

2. If the gross effective rate is more than five percent, five percent plus the following percentage:

(a) In the first year of the extension or renewal term, the gross effective rate minus five percent, multiplied by two-thirds.

(b) In the second year of the term, the gross effective rate minus five percent, multiplied by one-third.

(c) In the third year of the term, and thereafter, zero percent.

I. On application a licensing authority shall issue to a cable operator OR ITS AFFILIATE a permit to attach allowed Wi-Fi radio equipment to the cable television system in public streets, roads and alleys in the area of jurisdiction. The permits shall allow installation, operation and maintenance of the allowed Wi-Fi radio equipment. A licensing authority may require that all of the allowed Wi-Fi radio equipment at a single location fit within a fifteen-inch cube and be contained entirely within a ground-mounted pedestal otherwise allowed by the license or be connected directly to and mounted at the same height as one of the cable operator's aerial horizontal conductors otherwise allowed by the license.

J. Subsection I of this section does not:

1. Affect any authority of a political subdivision, including an agricultural improvement district or any other special taxing district, the licensing authority or any other person controlling utility poles in the public streets, roads and alleys to deny, limit, restrict or determine the terms and conditions for the use of or attachment to the utility poles or attachments to other poles of the political subdivision, licensing authority or other person by a cable operator.

2. Prohibit a licensing authority from imposing competitively neutral and nondiscriminatory requirements for a cable operator to underground aerial facilities to which allowed Wi-Fi equipment is attached.

3. Prohibit the imposition of a tax, rent, fee or charge on revenue from services provided through allowed Wi-Fi radio equipment.

4. Affect the authority of a licensing authority to manage the public streets, roads and alley within its boundaries or to exercise its police powers including review and approval of an application before issuing a permit.
K. For the purposes of this section:

1. "AFFILIATE" MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH A CABLE OPERATOR.

2. "Allowed Wi-Fi radio equipment" means radio equipment that uses only unlicensed radio spectrum and that enables wireless communication with a communications network for unlicensed services such as Wi-Fi service.

3. "Gross effective rate" means one hundred percent multiplied by the fraction in which the numerator is the sum of all taxes, fees and charges of the licensing authority that the cable operator itemized to subscribers and paid to the licensing authority under the license for the twelve calendar months immediately preceding September 21, 2006 and the denominator is the cable operator's gross revenues for that period in the area of jurisdiction.

Sec. 2. Section 9-506, Arizona Revised Statutes, as amended by section 1 of this act, is amended to read:

9-506. Authority to issue license; limitations; permits for Wi-Fi radio equipment; definitions

A. For the purpose of authorizing and regulating the construction, operation and maintenance of cable television systems, the licensing authority of a city, including a charter city, or town for an incorporated area, or the licensing authority of the county for unincorporated areas, either individually or jointly by intergovernmental contract, may issue a license to any person to use public streets, roads and alleys and shall impose conditions, restrictions and limitations on the use of public streets, roads and alleys and on the construction, operation and maintenance of cable television systems.

B. Subject to the limitations of this section, a licensing authority may adopt resolutions or ordinances implementing and controlling the license or joint license, issue a license containing other terms and conditions and impose a license fee on gross revenues. In addition to the limitations of this section, the license is subject to the limits established by the communications act of 1934, as amended (47 United States Code sections 151 through 615b) and the federal communications commission.

C. Other than the license fee on gross revenues authorized by this article and transaction privilege taxes as provided in this subsection, a licensing authority may not levy a tax, rent, fee or charge, however denominated, on a cable operator for the use of the public streets, roads or alleys to provide cable service or levy a tax, fee or charge on the privilege of engaging in the business of providing cable service in the area of jurisdiction. Taxes, rents, fees and charges include all:

1. Access channel support except for in-kind services or payments as provided in subsection D of this section.
2. Rental, application, construction, permit, inspection, inconvenience and other fees and charges related to a cable operator's use of the public streets, roads and alleys, including the use authorized by subsection I of this section. This subsection does not prohibit a licensing authority from levying fees and charges on a cable operator or its affiliates for microcell equipment pursuant to section 9-584 OR FOR SMALL WIRELESS FACILITIES PURSUANT TO ARTICLE 8 OF THIS CHAPTER OR TITLE 11, CHAPTER 13, ARTICLE 1 without an offset for license fees. In addition, the following apply:

(a) Any transaction privilege taxes otherwise authorized by law to be levied on the business of providing cable service or in relation to use of the public streets, roads or alleys to provide cable service may be levied on a cable operator if the taxes are levied only on gross revenues and the rate of the taxes is subject to subdivision (c) of this paragraph. This subsection does not authorize the imposition of transaction privilege taxes on interstate telecommunications services.

(b) The license fee and any transaction privilege taxes levied on gross revenues constitute a franchise fee within the meaning of 47 United States Code section 542(g)(1).

(c) Under no circumstances may the total of the rates of the license fee and of any transaction privilege taxes on gross revenues levied or assessed by a licensing authority for the privilege of providing cable service and related use of the public streets, roads or alleys to provide cable service exceed a rate of five percent, except during the transition period for certain licenses as provided in subsection H of this section.

(d) A cable operator shall pass on to subscribers any reduction in the amount of fees, taxes or other charges paid by a cable operator and itemized to subscribers that results from the implementation of the amendment to this section effective on September 21, 2006.

D. A licensing authority may not require a cable operator to provide in-kind services, make in-kind payments or pay a fee in addition to the monetary license fee levied or assessed as provided in this section as part of or as a condition of issuing a license to provide cable service, except that:

1. A licensing authority may require a cable operator to provide channel capacity to transmit programming over which the cable operator exercises no editorial control except as authorized by 47 United States Code section 531(e). The channel capacity shall be limited to not more than two channels of public, educational or governmental access programming in the basic service tier of the cable television system and not more than two channels of noncommercial governmental programming, at least one of which may be programmed by the federal government, in the digital programming tier of the cable television system. If channel capacity is required, the programming shall be specified in the license
and the cable operator may require that the channels regularly display an unobtrusive logo or other suitable identifier of the cable operator as set forth in the license.

2. A licensing authority may require a cable operator to incur costs and expenses to provide, maintain and operate facilities and equipment of the cable television system, including facilities and equipment for signal carriage, processing, reformating and interconnection:

   (a) To connect the cable television system, as it may be relocated from time to time, to transmit programming to and from existing locations of public, educational or governmental access facilities and to allow monitoring of access programming at the facilities.

   (b) To transmit public, educational and governmental access channels to subscribers with the same prevailing quality, functionality and identification as other channels.

3. A licensing authority may require a cable operator to provide the basic service tier of cable service at no monthly service charge to offices and facilities of the licensing authority.

4. The value of any channel capacity provided pursuant to paragraph 1 of this subsection, the costs and expenses incurred pursuant to paragraph 2 of this subsection and the value of basic service provided pursuant to paragraph 3 of this subsection may not be offset against the license fee levied or assessed under this section.

E. This section does not prohibit a cable operator from agreeing to provide in-kind services or make in-kind payments in the area of jurisdiction that are prohibited by subsection D of this section if the agreement with the licensing authority is not part of, or entered into as a condition of being issued, a new, renewed or amended license to provide cable service. An agreement that requires in-kind cable service or payments shall set forth the total annual fair market value of the in-kind cable service and payments, which shall be less than or equal to and offset against the license fee levied or assessed annually pursuant to this section. The license shall authorize the cable operator to retain license fees and taxes collected from its subscribers in the amount of this offset. In-kind cable services and payments include any channel capacity and all capital costs and charges for or in support of the use of any channel capacity that the cable operator agrees to provide under this subsection.

F. Notwithstanding subsection C of this section, a licensing authority may require that a cable operator:

   1. Bear reasonable costs that are associated with damage caused to public streets, roads and alleys by construction, maintenance and operation of its facilities in the public streets, roads and alleys and that are imposed on a competitively neutral and nondiscriminatory basis in
relation to costs borne by telecommunications corporations under section 9-582, subsection C.

2. Pay fines, fees, charges or damages for breach of the terms and conditions of the license.

G. This section does not affect the authority of a licensing authority to manage the public streets, roads and alleys within its boundaries or to exercise its police powers.

H. A license that is in effect on September 21, 2006, including one that is later renewed or extended for a term that begins before July 1, 2007, is enforceable in accordance with its terms and conditions as of July 1, 2007 and is not subject to the provisions of the amendment to this section effective on September 21, 2006. If a license that is in effect on September 21, 2006 is later extended or renewed for a term that begins after June 30, 2007, the extended or renewed license is subject to the provisions of the amendment to this section effective on September 21, 2006 and the amendment to this section effective on September 19, 2007, effective on the first day of the renewal or extension term, unless the term begins before January 1, 2008, in which case the limitation in subsection C, paragraph 2, subdivision (c) of this section on the rates of the license fee and of any transaction privilege taxes on gross revenues is:

1. Five percent, if the gross effective rate is five percent or less.

2. If the gross effective rate is more than five percent, five percent plus the following percentage:
   (a) In the first year of the extension or renewal term, the gross effective rate minus five percent, multiplied by two-thirds.
   (b) In the second year of the term, the gross effective rate minus five percent, multiplied by one-third.
   (c) In the third year of the term, and thereafter, zero percent.

I. On application a licensing authority shall issue to a cable operator or its affiliate a permit to attach allowed Wi-Fi radio equipment to the cable television system in public streets, roads and alleys in the area of jurisdiction. The permits shall allow installation, operation and maintenance of the allowed Wi-Fi radio equipment. A licensing authority may require that all of the allowed Wi-Fi radio equipment at a single location fit within a fifteen-inch cube and be contained entirely within a ground-mounted pedestal otherwise allowed by the license or be connected directly to and mounted at the same height as one of the cable operator's aerial horizontal conductors otherwise allowed by the license.

J. Subsection I of this section does not:

1. Affect any authority of a political subdivision, including an agricultural improvement district or any other special taxing district, the licensing authority or any other person controlling utility poles in the public streets, roads and alleys to deny, limit, restrict or determine
the terms and conditions for the use of or attachment to the utility poles
or attachments to other poles of the political subdivision, licensing
authority or other person by a cable operator.

2. Prohibit a licensing authority from imposing competitively
neutral and nondiscriminatory requirements for a cable operator to
underground aerial facilities to which allowed Wi-Fi equipment is
attached.

3. Prohibit the imposition of a tax, rent, fee or charge on revenue
from services provided through allowed Wi-Fi radio equipment.

4. Affect the authority of a licensing authority to manage the
public streets, roads and alley within its boundaries or to exercise its
police powers including review and approval of an application before
issuing a permit.

K. For the purposes of this section:

1. “Affiliate” means a person that directly or indirectly, through
one or more intermediaries, controls, is controlled by or is under common
control with a cable operator.

2. “Allowed Wi-Fi radio equipment” means radio equipment that uses
only unlicensed radio spectrum and that enables wireless communication
with a communications network for unlicensed services such as Wi-Fi
service.

3. “Gross effective rate” means one hundred percent multiplied by
the fraction in which the numerator is the sum of all taxes, fees and
charges of the licensing authority that the cable operator itemized to
subscribers and paid to the licensing authority under the license for the
twelve calendar months immediately preceding September 21, 2006 and the
denominator is the cable operator’s gross revenues for that period in the
area of jurisdiction.

Sec. 3. Section 9-582, Arizona Revised Statutes, is amended to
read:

9-582. Taxes and other charges; telecommunications
facilities; limitations

A. A political subdivision shall not levy a tax, rent, fee or
charge on a telecommunications corporation, including a telecommunications
corporation that provides interstate services as described in section
9-583, subsection C, for the use of a public highway to provide
telecommunications services, or levy a tax, fee or charge upon the
privilege of engaging in the business of providing telecommunications
services within that political subdivision other than:

1. Any transaction privilege tax authorized by law on the business
of providing telecommunications services, except that this section does
not allow the imposition of a transaction privilege tax on the business of
providing interstate telecommunications services. Any transaction
privilege tax authorized by law on the business of providing commercial
mobile radio service shall not exceed the tax rate levied on the business of providing telecommunications services.

2. A telecommunications application fee for the issuance of a telecommunications license or franchise if the application fee applies on a competitively neutral and nondiscriminatory basis to all telecommunications corporations that use the public highways to provide telecommunications services. A political subdivision may require only one application fee and one license or franchise for each telecommunications corporation whether the telecommunications corporation provides local services only or local and long-distance services, including intrastate or interstate services. An application fee is not required for a telecommunications corporation described in subsection E of this section.

3. A telecommunications construction permit fee for the issuance of a construction permit to place telecommunications facilities in the public highways if the permit fee applies on a competitively neutral and nondiscriminatory basis to all telecommunications corporations that place telecommunications facilities in the political subdivision's public highways to provide telecommunications services. Political subdivisions shall establish a nonbinding outside arbitration procedure to attempt to resolve disputes over recovery of reasonable, proportionate and attributable costs of construction permit fees pursuant to this paragraph and other fees pursuant to this article before the disputes are submitted to a court for resolution.

4. A fee under section 9-583, subsection C.

B. All application fees, permit fees and charges levied by a political subdivision on telecommunications corporations pursuant to subsection A, paragraphs 2 and 3 of this section shall be levied on a competitively neutral and nondiscriminatory basis and directly related to the costs incurred by the political subdivision in providing services relating to the granting or administration of applications or permits. These fees and charges also shall be reasonably related in time to the occurrence of the costs.

C. Notwithstanding subsections A and B of this section, a political subdivision may require a telecommunications corporation to bear all of the reasonable costs associated with construction, maintenance and operation of its facilities in the public highway used to provide telecommunications services, including bearing reasonable costs associated with damage caused to public highways.

D. Notwithstanding subsections A and B of this section, in a license or franchise, a political subdivision and a telecommunications corporation may agree to in-kind payments for use of the public highways different from those specified in subsection A or B of this section. The license or franchise shall be structured so that the in-kind payments made for use of the public highways to provide interstate telecommunications services under the license or franchise are less than or equal to and are
offset against any linear foot charge owed pursuant to section 9-583, subsection C, paragraphs 2 and 3. The license or franchise shall be structured so that the in-kind payments made under the license or franchise pursuant to subsection A, paragraph 1 of this section are less than or equal to and are offset against any transaction privilege license tax on the business of providing telecommunications services. The valuation of any in-kind benefits shall be set forth in such agreements. The in-kind facilities that are used to offset any or all payments in this subsection are limited to the costs of the in-kind facilities and shall remain in possession and ownership of the political subdivision after the term of the existing license or franchise expires. In-kind facilities may be offset for either payments of intrastate transaction privilege taxes or for interstate linear foot charges but shall not be offset for any combination of intrastate and interstate charges. However, a political subdivision shall not require a telecommunications corporation to provide in-kind services, make in-kind payments or pay a fee in addition to the fees described in subsections A, through B AND C of this section as a condition of consent to use a highway to provide telecommunications services.

E. Notwithstanding subsection D of this section, any telecommunications corporation that was providing telecommunications service within this state on November 1, 1997 pursuant to a grant made to it or its lawful predecessors prior to BEFORE the effective date of the Arizona Constitution may continue to provide telecommunications service pursuant to that state grant until it is lawfully repealed, revoked or amended. Such telecommunications corporation shall require no additional grant from any political subdivision to provide telecommunications services.

F. Nothing in This article shall be deemed to DOES NOT affect the terms or conditions of any franchise, license or permit issued by a political subdivision prior to BEFORE November 1, 1997, or to release any party from its obligations thereunder. Those franchises, licenses or permits shall remain fully enforceable in accordance with their terms. A political subdivision may lawfully enter into agreements with franchise holders, licensees or permittees to modify or terminate an existing franchise, license or agreement.

G. A political subdivision may not discriminate against a cable operator in its provision of USE OF ITS CABLE SYSTEM OR PREVENT A CABLE OPERATOR FROM USING ITS CABLE SYSTEM IN THE PUBLIC HIGHWAYS TO PROVIDE telecommunications services AND OTHER NONCABLE SERVICES if that THE cable operator complies with APPLICABLE FEDERAL AND STATE requirements applicable to telecommunications corporations. Nothing in This subsection LIMITS DOES NOT DO EITHER OF THE FOLLOWING:

1. LIMIT the authority of any political subdivision to license cable systems and to establish conditions on those licenses THAT ARE
COMPETITIVELY NEUTRAL AND NONDISCRIMINATORY WITH CONDITIONS APPLICABLE TO
TELECOMMUNICATIONS CORPORATIONS AND THAT ARE consistent with federal AND
STATE law.

2. AFFECT THE AUTHORITY OF A POLITICAL SUBDIVISION TO MANAGE THE
PUBLIC HIGHWAYS WITHIN ITS BOUNDARIES OR EXERCISE ITS POLICE POWERS AND
LAND USE POWERS.

Sec. 4. Section 9-584, Arizona Revised Statutes, is amended to read:

9-584. Microcell equipment in public highways; permits; fees;
limitations; definitions

A. A political subdivision shall allow the following persons AND
THEIR AFFILIATES to install, operate and maintain microcell equipment in
the public highways within THAT ARE UNDER THE JURISDICTION OF the
political subdivision:

1. A telecommunications corporation within the licensed area of a
license issued by the political subdivision under this article.

2. A telecommunications corporation described in section 9-582,
subsection E.

3. A cable operator in the area of jurisdiction licensed by the
political subdivision under section 9-506.

B. On application a political subdivision shall issue permits for
the installation, operation and maintenance of microcell equipment in the
public highways within the political subdivision on a competitively
neutral and nondiscriminatory basis to all persons specified in subsection
A of this section. ONLY A QUALIFIED SERVICE PROVIDER MAY USE MICROCELL
EQUIPMENT TO PROVIDE COMMERCIAL MOBILE RADIO SERVICE.

C. All application fees, permit fees and charges levied by a
political subdivision for applications or permits shall be levied on a
competitively neutral and nondiscriminatory basis and directly related to
the costs incurred by the political subdivision in providing services
relating to the granting or administration of applications or permits.
These fees and charges also shall be reasonably related in time to the
occurrence of the costs.

D. A political subdivision may not charge a recurring fee, rent or
other charge for use of aerial strand-mounted microcell equipment in
public highways within the political subdivision if the political
subdivision levies a rent, fee or charge on a person identified in
subsection A of this section for the use of the public highways to provide
a service. This subsection does not prohibit a political subdivision from
charging a competitively neutral and nondiscriminatory rent, fee or charge
for the use of utility poles or other poles of the political subdivision.

Only a qualified service provider may use microcell equipment to provide
commercial mobile services.
E. Except as the political subdivision agrees in the political subdivision's sole discretion, at each site microcell equipment is limited to:

1. Not more than two strand-mounted antennae and radio pairs that are owned by a person specified in subsection A of this section or a qualified service provider and that are used to provide commercial mobile radio service.

2. Related devices that are owned by a person specified in subsection A of this section and that are mounted on strand between utility poles, including power supplies, housings, cables and similar supporting furnishings and improvements.

F. This section does not:

1. Affect any authority of a political subdivision, an agricultural improvement district or any other special taxing district, or any other person controlling utility poles in the public highways to deny, limit, restrict or determine the terms and conditions for use of or attachment to the utility poles or attachments to other poles of the political subdivision, district or other person by a person specified in subsection A of this section.

2. Prohibit a political subdivision from imposing competitively neutral and nondiscriminatory requirements for a person identified in subsection A of this section to underground aerial facilities to which microcell equipment is attached.

3. Prohibit a political subdivision from imposing a tax, rent, fee or charge on revenue from services provided through microcell equipment.

4. Affect the authority of a political subdivision to manage the public highways within the political subdivision's boundaries or to exercise the political subdivision's police powers and land use powers, including review and approval of an application before issuing a permit.

5. AFFECT THE APPLICATION OF FEDERAL LAW ON PROCESSING APPLICATIONS, ISSUING PERMITS AND LEVYING CHARGES FOR THE CONSTRUCTION, MANAGEMENT, INSTALLATION, OPERATION, MAINTENANCE AND CONTROL OF MICROCELL EQUIPMENT IN THE PUBLIC HIGHWAYS.

G. For the purposes of this section:

1. "AFFILIATE" MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH A PERSON SPECIFIED IN SUBSECTION A OF THIS SECTION.

2. "Microcell equipment" means devices that are connected to the aerial facilities of a person specified in subsection A of this section and that are used solely for transmitting, processing and receiving voice and data wireless telecommunications services. Microcell equipment does not include any ground-based equipment.

3. Political subdivision does not include an agricultural improvement district or other special taxing district that controls utility poles or an irrigation district.
3. “Qualified service provider” means a person that has all applicable authorizations required to provide commercial mobile radio service using microcell equipment.

5. “Utility pole” means a pole or similar structure and attached appurtenances including strand that is designed for telecommunications, cable, data or electric functions.

Sec. 5. Legislative findings
Wireless communications services bring important daily benefits to the residents of this state, including sending and receiving constitutionally protected speech and other communications. Varying conditions and restrictions on access to the public highways, streets, roads and alleys across multiple political subdivisions of this state can impede the use of these services by, and their delivery to, the residents of this state. Therefore, the legislature finds, determines and declares that this act is necessary as a matter of statewide concern to ensure that cities, towns and counties, including charter cities, compatibly and effectively authorize, administer and manage the use of public highways, streets, roads and alleys for the provision of certain licensed and unlicensed wireless communications services. It is the public policy of this state that this act be enforced to the fullest extent permitted by federal law.

Sec. 6. Applicability
A. Section 9-506, subsection I, Arizona Revised Statutes, as amended by section 1 of this act, allowing an affiliate of a licensed cable operator to attach to the cable television system and operate and maintain allowed Wi-Fi radio equipment in public streets, roads and alleys, applies to all cable operator licenses issued before the effective date of this act.

B. Sections 9-582 and 9-584, Arizona Revised Statutes, as amended by this act, allowing certain persons to install, operate and maintain microcell equipment in the public highways within a political subdivision, apply to all persons specified in this act and their affiliates, including those with telecommunications corporation or cable operator licenses or other authorizations that took effect or were issued before the effective date of this act.

Sec. 7. Conditional enactment
Section 9-506, Arizona Revised Statutes, as amended by section 2 of this act, does not become effective unless House Bill 2365, fifty-third legislature, first regular session, relating to wireless services, becomes law.

APPROVED BY THE GOVERNOR APRIL 26, 2017.