

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 319
SENATE BILL 1528

AN ACT

AMENDING SECTIONS 9-1411, 9-1414, 9-1415 AND 9-1445, ARIZONA REVISED
STATUTES; RELATING TO VIDEO SERVICE PROVIDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-1411, Arizona Revised Statutes, is amended to
3 read:

4 9-1411. Local governments; uniform video service license
5 agreements; forms; provisions

6 A. From and after December 31, 2019, a local government has the
7 exclusive authority to issue a uniform video service license to a person
8 to provide video service and to construct and operate a video service
9 network in any service area within its boundaries.

10 B. On or before July 1, 2019, each local government shall adopt a
11 standard form of uniform video service license agreement for video service
12 providers to be used by the local government and a standard form of
13 application and affidavit as described in section 9-1414. A local
14 government shall prescribe other forms only as necessary to implement this
15 chapter.

16 C. The uniform video service license agreement adopted under
17 subsection B of this section must include all of the following provisions
18 in substantially the following form and may not include any other
19 provisions:

20 1. The name of the video service provider, its type of entity and
21 its jurisdiction of formation.

22 2. The address and telephone number of the video service provider's
23 principal place of business.

24 3. The name and address of the video service provider's principal
25 executive officers or general partners and any persons authorized to
26 represent the video service provider before the local government.

27 4. If the video service provider is not an incumbent cable
28 operator, the date on which the provider expects to provide video ~~services~~
29 **SERVICE** in the area identified under paragraph 5 of this subsection.

30 5. An exact description of the service area to be served, as
31 identified by a geographic information system digital boundary that meets
32 or exceeds national map accuracy standards.

33 6. A requirement that the video service provider pay the license
34 fees required under this chapter and all other lawful fees and charges
35 imposed by the local government.

36 7. A requirement that the video service provider file in a timely
37 manner with the federal communications commission all forms required by
38 that agency before offering video service in the service area, including
39 the forms required by 47 Code of Federal Regulations section 76.1801.

40 8. A requirement that the video service provider agrees to comply
41 with and be subject to all valid and enforceable federal and state laws.

42 9. A requirement that the video service provider agrees to comply
43 with all generally applicable, nondiscriminatory local laws, including
44 highway use, mapping, insurance, performance bonds, security fund,
45 indemnification, **LETTERS OF CREDIT** or similar requirements that apply to
46 the use and occupation of any highway and that conform to this chapter.

1 10. A requirement that the video service provider comply with the
2 public, education and government programming requirements of this chapter.

3 11. A requirement that the video service provider comply with all
4 customer service rules of the federal communications commission under
5 47 Code of Federal Regulations section 76.309(c) applicable to cable
6 operators.

7 12. A requirement that the video service provider comply with the
8 consumer privacy requirements of 47 United States Code section 551
9 applicable to cable operators.

10 13. A grant of authority by the local government to provide video
11 service in the service area as described under paragraph 5 of this
12 subsection.

13 14. A grant of authority by the local government to use and occupy
14 the highways in the delivery of the video service, subject to the laws of
15 this state and the police powers of the local government.

16 15. The term of the uniform video service license.

17 16. A requirement that the parties to the agreement are subject to
18 and must comply with this chapter.

19 D. Except as otherwise provided in this chapter, from and after
20 December 31, 2019 a person may not act as a video service provider or
21 construct or operate a video service network within the boundaries of a
22 local government without first having been issued and continuing to hold a
23 uniform video service license with a service area encompassing the
24 boundaries.

25 E. A local license shall remain enforceable in accordance with its
26 terms until terminated under section 9-1412, subsection B.

27 Sec. 2. Section 9-1414, Arizona Revised Statutes, is amended to
28 read:

29 9-1414. Uniform video service license; application; fees

30 A. To obtain a uniform video service license, a person shall file
31 with the clerk of the local government an application and affidavit that
32 are signed by one of the principal executive officers or general partners
33 of the applicant and that comply with this section.

34 B. The application and affidavit shall be in the form required by
35 the local government and shall be required to contain all of and not more
36 than the following:

37 1. Each service area in which the applicant intends to provide
38 video service in the format as described in section 9-1411, subsection C.
39 Except as provided in section 9-1412, subsection B, paragraph 2, under a
40 uniform video service license the boundaries of the local government ~~is~~
41 **ARE** a single service area and the service area consists of all of the
42 territory within the boundaries of that local government.

43 2. The information prescribed by section 9-1411, subsection C,
44 paragraphs 1 through 4. The holder shall notify the local government in
45 writing of changes to this information within thirty days after the change
46 occurs.

1 3. The term of the uniform video service license, which may not
2 exceed ten years.

3 4. An agreement to pay all lawful fees and charges imposed by the
4 local government.

5 C. An incumbent cable operator described in section 9-1412,
6 subsection B, paragraph 2 may elect to apply for a uniform video service
7 license for a service area that consists of the boundaries of a local
8 government.

9 D. If the local government determines that the application and
10 affidavit are incomplete or otherwise deficient for failure to comply with
11 this section, the local government shall provide written notice to the
12 applicant not later than fifteen days after the date of filing of the
13 application and affidavit. The written notice shall do both of the
14 following:

15 1. Explain the incompleteness or deficiency in detail.

16 2. Specify the information or other items that are necessary under
17 this section for proper completion of the application and affidavit.

18 E. The local government may not do any of the following:

19 1. Charge a fee for filing or processing an application, affidavit,
20 notice or other document under this ~~chapter~~ ARTICLE.

21 2. EXCEPT AS PROVIDED IN THIS ARTICLE, vote on or take other
22 official action regarding the application, affidavit, notice or other
23 document.

24 3. Require the applicant to obtain the approval of the local
25 government regarding the application, affidavit, notice or other document.

26 4. Require the applicant to enter into an agreement as described in
27 section 9-1442, subsection I.

28 Sec. 3. Section 9-1415, Arizona Revised Statutes, is amended to
29 read:

30 9-1415. Authority granted by uniform video service license;
31 conditions and limitations prohibited; providing
32 video service

33 A. WITHIN THE TIME FRAME THAT THE LOCAL GOVERNMENT HAS IN PLACE
34 PURSUANT TO SECTION 9-835, BUT not later than ~~thirty~~ FORTY-FIVE days after
35 the date an applicant files a completed application and affidavit pursuant
36 to section 9-1414, the local government shall issue a uniform video
37 service license to the applicant in the form prescribed by section 9-1411.
38 If the local government does not notify the applicant about the
39 completeness of the uniform video service license agreement within the
40 time period prescribed by section 9-1414, subsection D or issue the
41 agreement within the time period required under this subsection, the
42 agreement shall be considered complete and issued to the applicant in the
43 form submitted.

44 B. The uniform video service license issued to an applicant,
45 including an incumbent cable operator, by a local government is a
46 nonexclusive license granting to the holder of the uniform video service

1 license the authority for the term requested in the application to do all
2 of the following:

3 1. Provide video service in all service areas designated in the
4 application and affidavit filed with the local government.

5 2. Construct and operate a video service network in the highways in
6 each service area in compliance with this chapter and all local laws that
7 are not in conflict or otherwise do not conform to this chapter or the
8 purposes and objectives of this chapter.

9 3. Operate and maintain facilities installed in the highways in the
10 service area under a local license pursuant to all of the following:

11 (a) Section 9-506, subsections I and J.

12 (b) Section 9-584.

13 (c) Chapter 5, article 8 of this title and title 11, chapter 13,
14 article 1.

15 C. A local government may not condition or limit a uniform video
16 service license by imposing any obligation or requirement that is not
17 authorized by this chapter, including any of the following:

18 1. Any office location, institutional network or other build-out,
19 line extension, investment or other requirements relating to the overall
20 scope, extent and timing of infrastructure, facilities or deployment of
21 equipment.

22 2. Any requirements to pay to any person any application, document,
23 license, service or other fee, tax, charge or assessment that is not
24 authorized by this chapter.

25 D. A holder of a uniform video service license shall provide video
26 service in accordance with the certifications made by the holder in each
27 application and affidavit that the holder files with a local government
28 pursuant to this article.

29 Sec. 4. Section 9-1445, Arizona Revised Statutes, is amended to
30 read:

31 9-1445. Review and audit; bundling discounts; action to
32 recover underpayment or overpayment

33 A. Not more than once every three years, a local government may on
34 reasonable written notice audit the business books and records of a video
35 service provider to the extent necessary to ensure payment of license fees
36 pursuant to this chapter. ~~The local government may not audit any period~~
37 ~~that ends more than three years before the date that the notice of audit~~
38 ~~is received.~~ A LOCAL GOVERNMENT MAY ASSESS ADDITIONAL LICENSE FEES DUE AT
39 ANY TIME WITHIN FOUR YEARS AFTER THE DATE ON WHICH THE FEES WERE REQUIRED
40 TO BE PAID. Any audits of a period of time before issuance of a uniform
41 video service license shall be conducted pursuant to the local laws in
42 effect during the period of time.

43 B. Except as otherwise provided by federal law, if a video service
44 provider offers video service bundled with other services that are not
45 video service for a single discounted price, all of the following apply:

1 1. The method that the video service provider uses to determine
2 gross revenue subject to license fees by allocating the single discounted
3 price among the bundle of video service and nonvideo services shall be
4 reasonable and supported by the video service provider's books and
5 records.

6 2. The local government shall accept as reasonable, for purposes of
7 meeting the video service provider's burden of proof, an allocation based
8 on an objective and verifiable method using the books and records that the
9 video service provider kept in the regular course of business for other
10 purposes, including nontax purposes.

11 3. A video service provider may not use bundled offerings as a
12 means to evade paying license fees.

13 C. The local government and the video service provider shall each
14 pay its own costs and fees relating to each audit performed pursuant to
15 subsection A of this section. If the sum determined to be underpaid
16 exceeds five percent of the total fees that the audit determines should
17 have been paid for the period, the video service provider shall pay the
18 local government's reasonable costs of the audit.

19 D. The rate of interest for both underpayments and overpayments is
20 the federal short-term rate determined pursuant to 26 United States Code
21 section 6621(b), plus three percentage points.

22 E. A person that performs a review and audit under subsection A of
23 this section may not receive compensation that is based, in whole or in
24 part, on either of the following:

25 1. Finding a particular result.

26 2. The amount of any underpayment or overpayment of the license fee
27 that is identified because of the review and audit.

28 F. A complaint by a local government for underpayment of a license
29 fee from a video service provider or by a video service provider for
30 overpayment of a license fee to a local government shall be made pursuant
31 to article 5 of this chapter.

32 G. A complaint for a violation of the license fee obligations under
33 this chapter may not be made unless a written demand by a local government
34 for payment of the license fees or a written demand by a video service
35 provider for refund of license fees is made within four months after the
36 local government or video service provider realizes it has been damaged or
37 knows or reasonably should know of the damage caused by the alleged
38 violation.

39 H. A complaint must be filed pursuant to article 5 of this chapter
40 within ~~two~~ THREE years after the written demand is made pursuant to this
41 subsection but not sooner than ~~four~~ SIX months after the written demand.

APPROVED BY THE GOVERNOR JUNE 7, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 7, 2019.