



1 of franchise authority from the state in  
2 absence of a standard cable ordinance  
3 enactment; providing eligibility requirements;  
4 specifying required provisions of a standard  
5 cable ordinance; providing for optional  
6 provisions of a standard cable ordinance;  
7 providing application procedures and  
8 requirements for a statutory certificate of  
9 franchise authority; providing for issuing  
10 certificates of franchise authority; providing  
11 eligibility requirements and criteria for a  
12 certificate; authorizing the department to  
13 adopt rules; authorizing the department to  
14 revoke certificates under certain  
15 circumstances; providing for an application  
16 form; providing for fees; specifying authority  
17 contained in a certificate of authority;  
18 providing conditions of eligibility of  
19 incumbent cable service providers to seek an  
20 ordinance or statutory certificate of  
21 authority; prohibiting the department from  
22 imposing taxes, fees, or charges on a cable  
23 service provider to issue a certificate;  
24 requiring certificateholders to make cable  
25 service available at certain public buildings  
26 under certain circumstances; imposing certain  
27 customer service requirements on cable service  
28 providers; requiring the Department of  
29 Agriculture and Consumer Services to receive  
30 customer service complaints; requiring  
31 provision of public, educational, and

1 governmental access channels or capacity  
2 equivalent; providing criteria, requirements,  
3 and procedures; providing exceptions; providing  
4 responsibilities of municipalities and counties  
5 relating to such channels; providing for  
6 enforcement; providing requirements for and  
7 limitations on counties and municipalities  
8 relating to access to public right-of-way;  
9 prohibiting counties and municipalities from  
10 imposing additional requirements on  
11 certificateholders; authorizing counties and  
12 municipalities to require permits of  
13 certificateholders relating to public  
14 right-of-way; providing permit criteria and  
15 requirements; prohibiting discrimination  
16 between cable service subscribers; providing  
17 for enforcement; providing for determinations  
18 of violations; providing for enforcement of  
19 compliance by certificateholders; providing  
20 applicability to competitive video programming  
21 services; providing report requirements;  
22 providing enforcement limitations; providing  
23 severability; creating s. 364.1605, F.S.;  
24 specifying duties for certain incumbent local  
25 exchange carriers relating to  
26 voice-over-Internet protocols; specifying  
27 application of certain federal standards for  
28 certain requests of incumbent local exchange  
29 carriers; providing definitions; repealing s.  
30 166.046, F.S., relating to definitions and  
31 minimum standards for cable television

1 franchises imposed upon counties and  
2 municipalities; amending ss. 350.81 and  
3 364.0361, F.S.; conforming cross-references;  
4 providing an effective date.  
5

6 Be It Enacted by the Legislature of the State of Florida:  
7

8 Section 1. This act may be cited as the "Consumer  
9 Broadband Choice Act of 2007."

10 Section 2. Legislative findings.--

11 (1) The Legislature finds that:

12 (a) Cable programming services provide numerous  
13 benefits to the health, safety, and welfare of the residents  
14 of this state, including access to a variety of news, public  
15 information, education, and entertainment programming.

16 (b) The state should bring uniformity and efficiency  
17 to the cable service franchising authorization process that  
18 allows market participants to use their networks and systems  
19 to provide video, voice, and broadband services to the  
20 residents of this state.

21 (2) The Legislature finds as a matter of important  
22 statewide concern that reformation of the franchising process  
23 is necessary to:

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

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

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

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

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

5           (3) The Legislature finds that providing an incumbent  
6 cable operator with the option to secure a standard ordinance  
7 or statutory certificate franchise through the preemption of  
8 an existing cable franchise between a cable operator and any  
9 political subdivision of the state, including, but not limited  
10 to, any municipality or county, is an essential element of the  
11 new regulatory framework established by this act as a matter  
12 of statewide concern to best ensure equal protection and  
13 parity among providers and technologies, as well as to achieve  
14 the goals stated by the Legislature in enacting this act.

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

17           202.24 Limitations on local taxes and fees imposed on  
18 dealers of communications services.--

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

21           1. Levying on or collecting from dealers or purchasers  
22 of communications services any tax, charge, fee, or other  
23 imposition on or with respect to the provision or purchase of  
24 communications services.

25           2. Requiring any dealer of communications services to  
26 enter into or extend the term of a franchise or other  
27 agreement that requires the payment of a tax, charge, fee, or  
28 other imposition.

29           3. Adopting or enforcing any provision of any  
30 ordinance or agreement to the extent that such provision  
31 obligates a dealer of communications services to charge,

1 collect, or pay to the public body a tax, charge, fee, or  
2 other imposition.

3  
4 Municipalities and counties may not negotiate the ~~Each~~  
5 ~~municipality and county retains authority to negotiate all~~  
6 ~~terms and conditions of a cable service franchise allowed by~~  
7 ~~federal and state law except those~~ terms and conditions  
8 related to franchise fees or ~~and~~ the definition of gross  
9 revenues or other definitions or methodologies related to the  
10 payment or assessment of franchise fees on providers of cable  
11 services.

12 (c) This subsection does not apply to:

13 1. Local communications services taxes levied under  
14 this chapter.

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

16 3. Occupational license taxes levied under chapter  
17 205.

18 4. "911" service charges levied under chapter 365.

19 5. Amounts charged for the rental or other use of  
20 property owned by a public body which is not in the public  
21 rights-of-way to a dealer of communications services for any  
22 purpose, including, but not limited to, the placement or  
23 attachment of equipment used in the provision of  
24 communications services.

25 6. Permit fees of general applicability which are not  
26 related to placing or maintaining facilities in or on public  
27 roads or rights-of-way.

28 7. Permit fees related to placing or maintaining  
29 facilities in or on public roads or rights-of-way pursuant to  
30 s. 337.401.

31

1           8. Any in-kind requirements, institutional networks,  
2 or contributions for, or in support of, the use or  
3 construction of public, educational, or governmental access  
4 facilities allowed under federal law and imposed on providers  
5 of cable service pursuant to any existing ordinance or an  
6 existing franchise agreement granted by each municipality or  
7 county, under which ordinance or franchise agreement service  
8 is provided prior to July 1, 2007. Nothing in this  
9 subparagraph shall prohibit the ability of providers of cable  
10 service to recover such expenses as allowed under federal law.

11           9. Special assessments and impact fees.

12           10. Pole attachment fees that are charged by a local  
13 government for attachments to utility poles owned by the local  
14 government.

15           11. Utility service fees or other similar user fees  
16 for utility services.

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

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

23           337.401 Use of right-of-way for utilities subject to  
24 regulation; permit; fees.--

25           (3)(a)~~1-~~ Because of the unique circumstances  
26 applicable to providers of communications services, including,  
27 but not limited to, the circumstances described in paragraph  
28 (e) and the fact that federal and state law require the  
29 nondiscriminatory treatment of providers of telecommunications  
30 services, and because of the desire to promote competition  
31 among providers of communications services, it is the intent

1 of the Legislature that municipalities and counties treat  
2 providers of communications services in a nondiscriminatory  
3 and competitively neutral manner when imposing rules or  
4 regulations governing the placement or maintenance of  
5 communications facilities in the public roads or  
6 rights-of-way. Rules or regulations imposed by a municipality  
7 or county relating to providers of communications services  
8 placing or maintaining communications facilities in its roads  
9 or rights-of-way must be generally applicable to all providers  
10 of communications services and, notwithstanding any other law,  
11 may not require a provider of communications services, ~~except~~  
12 ~~as otherwise provided in subparagraph 2.7,~~ to apply for or  
13 enter into an individual license, franchise, or other  
14 agreement with the municipality or county as a condition of  
15 placing or maintaining communications facilities in its roads  
16 or rights-of-way. In addition to other reasonable rules or  
17 regulations that a municipality or county may adopt relating  
18 to the placement or maintenance of communications facilities  
19 in its roads or rights-of-way under this subsection, a  
20 municipality or county may require a provider of  
21 communications services that places or seeks to place  
22 facilities in its roads or rights-of-way to register with the  
23 municipality or county and to provide the name of the  
24 registrant; the name, address, and telephone number of a  
25 contact person for the registrant; the number of the  
26 registrant's current certificate of authorization issued by  
27 the Florida Public Service Commission, ~~or~~ the Federal  
28 Communications Commission, or the Department of State; and  
29 proof of insurance or self-insuring status adequate to defend  
30 and cover claims. For the purposes of this section, the term  
31 "communications service" includes "cable service" as defined

1 in s. 610.103 and "competitive video programming services" as  
2 defined in s. 610.117.

3 ~~2. Notwithstanding the provisions of subparagraph 1.,~~  
4 ~~a municipality or county may, as provided by 47 U.S.C. s. 541,~~  
5 ~~award one or more franchises within its jurisdiction for the~~  
6 ~~provision of cable service, and a provider of cable service~~  
7 ~~shall not provide cable service without such franchise. Each~~  
8 ~~municipality and county retains authority to negotiate all~~  
9 ~~terms and conditions of a cable service franchise allowed by~~  
10 ~~federal law and s. 166.046, except those terms and conditions~~  
11 ~~related to franchise fees and the definition of gross revenues~~  
12 ~~or other definitions or methodologies related to the payment~~  
13 ~~or assessment of franchise fees and permit fees as provided in~~  
14 ~~paragraph (c) on providers of cable services. A municipality~~  
15 ~~or county may exercise its right to require from providers of~~  
16 ~~cable service in kind requirements, including, but not limited~~  
17 ~~to, institutional networks, and contributions for, or in~~  
18 ~~support of, the use or construction of public, educational, or~~  
19 ~~governmental access facilities to the extent permitted by~~  
20 ~~federal law. A provider of cable service may exercise its~~  
21 ~~right to recover any such expenses associated with such~~  
22 ~~in kind requirements, to the extent permitted by federal law.~~

23 (e) The authority of municipalities and counties to  
24 require franchise fees from providers of communications  
25 services, with respect to the provision of communications  
26 services, is specifically preempted by the state, ~~except as~~  
27 ~~otherwise provided in subparagraph (a)2.,~~ because of unique  
28 circumstances applicable to providers of communications  
29 services when compared to other utilities occupying municipal  
30 or county roads or rights-of-way. Providers of communications  
31 services may provide similar services in a manner that

1 requires the placement of facilities in municipal or county  
2 roads or rights-of-way or in a manner that does not require  
3 the placement of facilities in such roads or rights-of-way.  
4 Although similar communications services may be provided by  
5 different means, the state desires to treat providers of  
6 communications services in a nondiscriminatory manner and to  
7 have the taxes, franchise fees, and other fees paid by  
8 providers of communications services be competitively neutral.  
9 Municipalities and counties retain all existing authority, if  
10 any, to collect franchise fees from users or occupants of  
11 municipal or county roads or rights-of-way other than  
12 providers of communications services, and the provisions of  
13 this subsection shall have no effect upon this authority. The  
14 provisions of this subsection do not restrict the authority,  
15 if any, of municipalities or counties or other governmental  
16 entities to receive reasonable rental fees based on fair  
17 market value for the use of public lands and buildings on  
18 property outside the public roads or rights-of-way for the  
19 placement of communications antennas and towers.

20 (f) Except as expressly allowed or authorized by  
21 general law and except for the rights-of-way permit fees  
22 subject to paragraph (c), a municipality or county may not  
23 levy on a provider of communications services a tax, fee, or  
24 other charge or imposition for operating as a provider of  
25 communications services within the jurisdiction of the  
26 municipality or county which is in any way related to using  
27 its roads or rights-of-way. A municipality or county may not  
28 require or solicit in-kind compensation, except as otherwise  
29 provided in s. 610.1075(2) ~~subparagraph (a)2~~. Nothing in this  
30 paragraph shall impair any ordinance or agreement in effect on  
31 May 22, 1998, or any voluntary agreement entered into

1 subsequent to that date, which provides for or allows in-kind  
2 compensation by a telecommunications company.

3 Section 5. Section 337.4061, Florida Statutes, is  
4 amended to read:

5 337.4061 Definitions; unlawful use of state-maintained  
6 road right-of-way by nonfranchised cable ~~television~~  
7 services.--

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

9 (a) "Cable service" means:

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

12 2. Subscriber interaction, if any, which is required  
13 for the selection or use of such video programming or other  
14 programming service.

15 (b) "Cable system" means a facility, consisting of a  
16 set of closed transmission paths and associated signal  
17 generation, reception, and control equipment that is designed  
18 to provide cable service which includes video programming and  
19 which is provided to multiple subscribers within a community,  
20 but such term does not include:

21 1. A facility that serves only to retransmit the  
22 television signals of one or more television broadcast  
23 stations;

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

28 3. A facility of a common carrier that is subject, in  
29 whole or in part, to the provisions of Title II of the Federal  
30 Cable Act, except that such facility shall be considered a  
31 cable system other than for purposes of s. 621(c) of the

1 Federal Cable Act to the extent such facility is used in the  
2 transmission of video programming directly to subscribers,  
3 unless the extent of such use is solely to provide interactive  
4 on-demand services; or

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

7 ~~5.4.~~ Any facilities of any electric utility used  
8 solely for operating its electric utility systems.

9 (c) "Franchise" means an initial authorization or  
10 renewal thereof issued by a franchising authority, whether  
11 such authorization is designated as a franchise, permit,  
12 license, resolution, contract, certificate, agreement, or  
13 otherwise, which authorizes the construction or operation of a  
14 cable system.

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

18 (e) "Person" means an individual, partnership,  
19 association, joint stock company, trust, corporation, or  
20 governmental entity.

21 (f) "Video programming" means programming provided by  
22 or generally considered comparable to programming provided by  
23 a television broadcast station or cable system.

24 (2) It is unlawful to use the right-of-way of any  
25 state-maintained road, including appendages thereto, and also  
26 including, but not limited to, rest areas, wayside parks,  
27 boat-launching ramps, weigh stations, and scenic easements, to  
28 provide for cable service over a cable system ~~purposes~~ within  
29 a geographic area subject to a valid existing franchise for  
30 cable service, unless the cable system using such right-of-way  
31 holds a franchise from a franchising authority ~~the~~

1 ~~municipality or county~~ for the area in which the right-of-way  
2 is located.

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

5 Section 6. Sections 610.102, 610.103, 610.104,  
6 610.105, 610.107, 610.1075, 610.108, 610.109, 610.1105,  
7 610.1115, 610.112, 610.113, 610.114, 610.115, 610.116,  
8 610.117, 610.118, and 610.119, Florida Statutes, are created  
9 to read:

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

17 610.103 Definitions.--As used in this chapter, the  
18 term:

19 (1) "Cable service" means:

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

22 (b) Subscriber interaction, if any, that is required  
23 for the selection or use of such video programming or other  
24 programming service.

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

27 (3) "Cable system" means a facility consisting of a  
28 set of closed transmission paths and associated signal  
29 generation, reception, and control equipment that is designed  
30 to provide cable service that includes video programming and  
31

1 that is provided to multiple subscribers within a community,  
2 but such term does not include:  
3       (a) A facility that serves only to retransmit the  
4 television signals of one or more television broadcast  
5 stations;  
6       (b) A facility that serves subscribers without using  
7 any public right-of-way;  
8       (c) A facility of a common carrier that is subject, in  
9 whole or in part, to the provisions of Title II of the Federal  
10 Cable Act, except that such facility shall be considered a  
11 cable system other than for purposes of s. 621(c) of the  
12 Federal Cable Act only to the extent such facility is used in  
13 the transmission of video programming directly to subscribers,  
14 unless the extent of such use is solely to provide interactive  
15 on-demand services;  
16       (d) An open video system that complies with s. 653 of  
17 the Federal Cable Act; or  
18       (e) Any facilities of any electric utility used solely  
19 for operating its electric utility systems.  
20       (4) "Certificateholder" means a cable service provider  
21 or a competitive video programming services provider that has  
22 been issued and holds an ordinance or statutory certificate of  
23 franchise authority from the department.  
24       (5) "Department" means the Department of State.  
25       (6) "Franchise" or "franchise authority" means an  
26 initial authorization or renewal of an authorization,  
27 regardless of whether the authorization is designated as a  
28 franchise, permit, license, resolution, contract, certificate,  
29 agreement, or otherwise, to construct and operate a cable  
30 system in the public right-of-way.  
31

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

5           (8) "Public right-of-way" means the area on, below, or  
6 above a public roadway, highway, street, sidewalk, or alley,  
7 including, but not limited to, a municipal, county, state,  
8 district, or other public roadway, highway, street, sidewalk,  
9 or alley.

10           (9) "Video programming" means programming provided by,  
11 or generally considered comparable to programming provided by,  
12 a television broadcast station as set forth in 47 U.S.C. s.  
13 522(20).

14           610.104 Standard cable ordinance; ordinance  
15 certificate of franchise authority.--

16           (1) A municipality or county may enact a standard  
17 cable ordinance for the provision of cable service over a  
18 cable system within its jurisdiction within 90 days after a  
19 request by an entity or person, other than the incumbent cable  
20 service provider, seeking to provide cable service over a  
21 cable system in whole or in part within that municipality or  
22 county but in no event later than January 1, 2009. A  
23 municipality must, at least 10 days prior to consideration on  
24 first reading, and a county must, at least 15 days prior to  
25 consideration at a public hearing, provide notice to the  
26 Secretary of State of a proposed standard cable ordinance. The  
27 notice required by this subsection must be published by the  
28 Secretary of State on a designated Internet website.

29           (2) A standard cable ordinance shall contain each of  
30 the terms and conditions set forth in s. 610.107 using the  
31 precise language contained in that section. The standard cable

1 ordinance may contain any or all of the provisions in s.  
2 610.1075 and shall not impose any other terms or conditions  
3 upon a cable service provider. If a municipality or county  
4 enacts a standard cable ordinance within the 90-day period  
5 that complies with the requirements of this section, an entity  
6 or person seeking to provide cable service over a cable system  
7 in whole or in part within that municipality or county shall  
8 file its application for an ordinance certificate pursuant to  
9 the terms and conditions set forth in s. 610.107 with the  
10 municipality or county. Upon determining that an applicant has  
11 met the criteria as set forth in s. 610.107, the municipality  
12 or county shall immediately issue notice of compliance to the  
13 department, whereupon the department shall issue an ordinance  
14 certificate of franchise authority that contains all of the  
15 terms set forth in s. 610.108(4) within 5 business days. The  
16 standard cable ordinance enacted by a municipality or county  
17 pursuant to, and in conformance with, the requirements of this  
18 chapter shall supersede any existing cable ordinance enacted  
19 by the county or municipality with regard to any cable service  
20 provider electing to apply for or operating under a standard  
21 ordinance certificate. A municipality or county may not change  
22 the terms of any ordinance adopted pursuant to this section,  
23 except that the municipality or county may change terms  
24 adopted pursuant to s. 610.1075 after a period of 10 years  
25 after the date of initial enactment of the standard ordinance  
26 and every 10 years thereafter, subject to the limits set forth  
27 in s. 610.1075(1)-(7).

28 (3) Nothing in this act shall be construed to give any  
29 local government or the department any authority over any  
30 communications service other than cable service or competitive  
31

1 video programming services whether offered on a common carrier  
2 or private contract basis.

3 610.105 Statutory certificate.--In the event a  
4 municipality or county fails to enact the standard cable  
5 ordinance permitted by s. 610.104 within 90 days after a  
6 request or before January 1, 2009, whichever is earlier, or  
7 fails to provide notice of compliance with the department to  
8 allow the department to issue an ordinance certificate  
9 pursuant to the standard cable ordinance within the period set  
10 forth in s. 610.107(3), an entity or person seeking to provide  
11 cable service over a cable system in whole or in part within  
12 that municipality or county shall file for a statutory  
13 certificate of franchise authority with the department as set  
14 forth in s. 610.108.

15 610.106 Eligibility.--An entity providing cable  
16 service under an unexpired franchise agreement with a  
17 municipality or county as of July 1, 2007 is not eligible to  
18 apply for an ordinance or statutory certificate of franchise  
19 authority with respect to such municipality or county until  
20 the franchise agreement expires, except as provided by s.  
21 610.109(2). An entity providing cable service may seek an  
22 ordinance or statutory certificate to provide service in areas  
23 where the entity currently does not have an existing franchise  
24 agreement as of July 1, 2007.

25 610.107 Required provisions of standard cable  
26 ordinance.--A municipality or county electing to enact a  
27 standard cable ordinance pursuant to s. 610.104 must adopt the  
28 provisions set forth in subsections (1)-(11):

29 (1) An entity or person seeking to provide cable  
30 service over a cable system located in whole or in part within  
31 the applicable municipality or county must submit to the

1 applicable municipal or county agency an affidavit signed by  
2 an officer or general partner of the applicant affirming:

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

7 (b) That the applicant agrees to comply with all  
8 applicable federal and state laws and regulations, to the  
9 extent that such state laws and rules are not in conflict with  
10 or superseded by the provisions of chapter 610 and s. 337.401  
11 or other applicable state law.

12 (c) That the applicant agrees to comply with all  
13 lawful state laws and rules and municipal and county  
14 ordinances and regulations regarding the placement and  
15 maintenance of communications facilities in the public  
16 right-of-way that are generally applicable to providers of  
17 communications services in accordance with s. 337.401.

18 (d) A description of the service area for which the  
19 applicant seeks certificate of franchise authority, which  
20 shall be coextensive with municipal, county, or other  
21 political boundaries. For applicants with existing  
22 communications facilities, the service area shall be  
23 coextensive with any provider's existing network boundaries.

24 (e) The location of the applicant's principal place of  
25 business and the names of the applicant's principal executive  
26 officers.

27 (f) That the applicant is authorized to do business in  
28 the state.

29 (g) That the applicant has sufficient technical,  
30 financial, and managerial capability to provide cable service  
31 within the service area for which the applicant seeks a

1 certificate of franchise authority. At the time of filing the  
2 affidavit, the applicant shall furnish its most recent  
3 unqualified audited financial statement if a publicly  
4 available audited financial report for the applicant or its  
5 parent entity is not available.

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

9 (2) Before the 10th business day after an applicant  
10 for a certificate of franchise authority submits the affidavit  
11 described in subsection (1), the applicable municipal or  
12 county agency shall notify the applicant whether the  
13 applicant's affidavit is complete. If the applicable municipal  
14 or county agency finds that the application is incomplete, the  
15 applicable municipal or county agency must specify with  
16 particularity the corrective action required and permit the  
17 applicant to amend the application to cure any deficiency.

18 (3) The applicable municipal or county agency shall  
19 provide a notice of compliance to the Department of State  
20 before the 15th business day after receipt of an affidavit  
21 submitted by an applicant pursuant to subsection (1), except  
22 that, if the applicable municipal or county agency provides  
23 notice before the 10th business day after receipt of the  
24 affidavit that the affidavit is not complete pursuant to  
25 subsection (2), the applicable municipal or county agency  
26 shall submit a notice of compliance to the Department of State  
27 within 5 business days after receipt of an amended affidavit.

28 (4) After the Department of State issues an ordinance  
29 certificate of franchise authority pursuant to s. 610.104, the  
30 applicant shall have the right to provide cable service over a  
31 cable system as requested in the affidavit and shall have the

1 right to construct, maintain, and operate facilities through,  
2 upon, over, and under any public right-of-way or waters within  
3 the applicable municipality or county.

4 (5) A certificateholder may include additional service  
5 areas within the applicable municipality or county in its  
6 current ordinance certificate by filing notice with the  
7 applicable municipal or county agency and the Department of  
8 State that reflects the new service area or areas to be  
9 served.

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

16 (7) The certificate of franchise authority issued by  
17 the department may be terminated by the cable service provider  
18 by submitting notice to the applicable municipal or county  
19 agency and the Department of State.

20 (8) An applicant may challenge a denial of an  
21 application or any failure to act by the applicable municipal  
22 or county agency in a court of competent jurisdiction through  
23 a petition for a writ of mandamus.

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

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

29 (11) After the effective date of the ordinance, a  
30 cable service provider operating under a franchise agreement  
31 granted by the applicable municipality or county prior to the

1 effective date of the ordinance may elect to terminate its  
2 existing franchise agreement pursuant to s. 610.109 and obtain  
3 an ordinance franchise hereunder.

4 610.1075 Optional provisions of standard cable  
5 ordinance.--A municipality or county electing to enact a  
6 standard cable ordinance pursuant to s. 610.104 may include  
7 provisions that:

8 (1) Establish the number of public, educational, and  
9 governmental access channels that each cable service provider  
10 must provide, upon request, to the municipality or county, as  
11 follows:

12 (a) A municipality or county may require an ordinance  
13 certificateholder, within 180 days following a request from  
14 such municipality or county, to designate a sufficient amount  
15 of capacity on its network to allow the provision of the same  
16 number of public, educational, and governmental access  
17 channels or functional equivalent that a municipality or  
18 county has activated under the incumbent cable service  
19 provider's franchise agreement as of January 1, 2007. Upon the  
20 earlier of the expiration or termination of the incumbent  
21 cable service providers' franchise agreement, the maximum  
22 number of channels or capacity shall be as set forth in  
23 paragraph (b). For the purposes of this section, a public,  
24 educational, or governmental channel is deemed activated if  
25 the channel is being used for public, educational, or  
26 governmental programming within the municipality or county for  
27 at least 8 hours per day of locally produced original  
28 programming, excluding without limitation repeat and  
29 character-generated programming, for any 6-consecutive-month  
30 period. The municipality or county may require, within 180  
31 days following a request from such municipality or county,

1 additional channels or functional capacity up to the  
2 equivalent permitted under the incumbent cable service  
3 provider's franchise agreement as of January 1, 2007, until  
4 such agreement expires or is terminated.

5 (b) If a municipality or county did not have public,  
6 educational, or governmental access channels activated under  
7 the incumbent cable service provider's franchise agreement as  
8 of January 1, 2007, the municipality or county may require the  
9 ordinance certificateholder to furnish, not later than 180  
10 days following a request by the municipality or county:

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

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

17  
18 The limits in sub-subparagraphs 1. and 2. constitute the total  
19 number of public, educational, or governmental channels that  
20 may be designated on any cable service provider's network  
21 using a single headend, or on all commonly owned cable service  
22 provider's networks that share a common headend, regardless of  
23 the number of municipalities or counties served from such  
24 headend, provided that the populations of all cities and  
25 counties served by such provider's networks shall be  
26 aggregated for purposes of applying such limits.

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

31

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

4           (2) Provide that if the municipality or county was  
5 entitled on July 1, 2007, to receive recurring or nonrecurring  
6 cash or other payments to support the capital or operating  
7 costs of public, educational, and governmental access  
8 facilities pursuant to the terms of the incumbent cable  
9 service provider's franchise, the municipality or county may  
10 require an ordinance certificateholder to make the same cash  
11 or other payments until the earlier of the termination or  
12 expiration date of the incumbent cable service provider's  
13 franchise agreement existing as of July 1, 2007. Upon  
14 expiration or termination of the incumbent cable service  
15 provider's franchise, any cash or other payments shall be  
16 prohibited.

17           (3) Require each ordinance certificateholder, if  
18 requested pursuant to a bona fide order for cable service, to  
19 make cable service available at any building located within  
20 125 feet of a certificateholder's existing distribution plant,  
21 provided such buildings are used for municipal or county  
22 purposes, including, but not limited to, emergency operations  
23 centers, fire stations, and public schools within the area  
24 described in its application including any amendments to such  
25 application. The municipality or county shall be responsible  
26 for any connectivity beyond the first 125 feet. The  
27 municipality or county shall be responsible for obtaining  
28 authority for the certificateholder to gain access to any  
29 leased facility to provide the services described in this  
30 section on terms that are reasonably acceptable to the  
31 certificateholder and at no cost to the certificateholder.

1           (4) Identify and cross-reference other municipal and  
2 county ordinances and regulations regarding the placement and  
3 maintenance of communications facilities in the public  
4 right-of-way with which each ordinance certificateholder must  
5 comply. Any other ordinance and regulation identified and  
6 cross-referenced in the standard cable ordinance shall be  
7 generally applicable to all providers of communications  
8 services in accordance with s. 337.401.

9           (5) Require an incumbent cable service provider to  
10 comply with customer service requirements reasonably  
11 comparable to, and that do not exceed, the standards in 47  
12 C.F.R. s. 76.309(c). Such requirements shall only apply until  
13 there are two or more providers offering cable service or  
14 competitive video programming services in the relevant service  
15 area. In addition, the municipality or county may require that  
16 cable service quality complaints from customers of an  
17 ordinance certificateholder within the jurisdiction of the  
18 municipality or county be filed with an appropriate municipal  
19 or county office or agency. This subsection shall not be  
20 construed to permit the municipality or county to impose  
21 customer service standards in conflict with this section.

22           610.108 Application process; statutory certificate of  
23 franchise authority.--When a person or entity applies for a  
24 statutory certificate of franchise authority under s. 610.105,  
25 the following provisions apply:

26           (1) Before the 10th business day after an applicant  
27 for a certificate of franchise authority submits the affidavit  
28 described in subsection (2), the department shall notify the  
29 applicant whether the applicant's affidavit is complete. If  
30 the department denies the application, the department shall  
31 specify with particularity the reasons for the denial and

1 permit the applicant to amend the application to cure any  
2 deficiency. The department shall act upon such amended  
3 application within 10 business days.

4 (2) The department may establish a standard  
5 application form that shall be limited to the specific  
6 information required under subsection (3), in which case the  
7 application shall be on such form and must be accompanied by a  
8 one-time application fee established by the department, not to  
9 exceed \$500 for the applicant's initial application and no  
10 more than \$50 for each of the applicant's additional  
11 applications. The fee shall be based on the costs incurred by  
12 the department in performing its duties under this chapter.  
13 For purposes of this subsection, a parent company may file a  
14 single application covering itself and all of its subsidiaries  
15 and affiliates intending to provide cable service in the  
16 service areas throughout the state as described in paragraph  
17 (3)(d), but the entity actually providing such service in a  
18 given area shall otherwise be considered the certificateholder  
19 under this act.

20 (3) The department shall issue a certificate of  
21 franchise authority to offer cable service before the 30th  
22 business day after receipt of a completed affidavit submitted  
23 by an applicant and signed by an officer or general partner of  
24 the applicant affirming:

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

29 (b) That the applicant agrees to comply with all  
30 applicable federal and state laws and regulations, to the  
31 extent that such state laws and rules are not in conflict with

1 or superseded by the provisions of this chapter or other  
2 applicable state law.

3 (c) That the applicant agrees to comply with all  
4 lawful state laws and rules and municipal and county  
5 ordinances and regulations regarding the placement and  
6 maintenance of communications facilities in the public  
7 right-of-way that are generally applicable to providers of  
8 communications services in accordance with s. 337.401.

9 (d) A description of the service area for which the  
10 applicant seeks a certificate of franchise authority, which  
11 shall be coextensive with municipal, county, or other  
12 political boundaries. For applicants with existing  
13 communications facilities, the service area shall be  
14 coextensive with any provider's existing network boundaries.

15 (e) The location of the applicant's principal place of  
16 business and the names of the applicant's principal executive  
17 officers.

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

20 (g) That the applicant has sufficient technical,  
21 financial, and managerial capability to provide cable service  
22 within the service area for which the applicant seeks a  
23 certificate of franchise authority. At the time of the filing  
24 of the affidavit, the applicant shall furnish its most recent  
25 unqualified audited financial statement if a publicly  
26 available audited financial report for the applicant or its  
27 parent entity is not available.

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

31

1           (4) If the department fails to act on the application  
2 within 30 business days after receiving the application, the  
3 application shall be deemed granted by the department without  
4 further action.

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

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

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

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

15           (6) A certificateholder that seeks to include  
16 additional service areas in its current certificate shall file  
17 notice with the department that reflects the new service area  
18 or areas to be served consistent with the requirements of  
19 paragraph (3)(d).

20           (7) The certificate of franchise authority issued by  
21 the department is fully transferable to any successor in  
22 interest to the applicant to which the certificate is  
23 initially granted. A notice of transfer shall be filed with  
24 the department and the relevant municipality or county within  
25 14 business days following the completion of such transfer.

26           (8) The certificate of franchise authority issued by  
27 the department may be terminated by the cable service provider  
28 by submitting notice to the department.

29           (9) An applicant may challenge a denial of an  
30 application by the department in a court of competent  
31 jurisdiction through a petition for a writ of mandamus.

1           (10) The department may adopt any procedural rules and  
2 regulations pursuant to ss. 120.536(1) and 120.54 necessary to  
3 implement this section. Failure of an applicant to comply with  
4 procedural rules and regulations adopted by the department to  
5 implement this section shall not be a basis for denial of a  
6 certificate if the affidavit is submitted before the  
7 department adopts such procedural rules and regulations.

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

14           610.109 Eligibility of incumbent cable service  
15 provider for ordinance or statutory certificate of franchise  
16 authority in areas where provider has an existing  
17 franchise.--A cable service provider that has an existing,  
18 unexpired franchise to provide cable service with respect to a  
19 municipality or county as of July 1, 2007, may seek an  
20 ordinance or statutory certificate of franchise authority  
21 under this chapter as to that municipality or county upon the  
22 earliest of:

23           (1) The expiration date of the existing franchise  
24 agreement;

25           (2) January 1, 2009;

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

28           (4) The date any cable service provider or competitive  
29 video programming services provider receives a statutory  
30 certificate of franchise authority to serve all or portions of  
31 that municipality or county under s. 610.108. An incumbent

1 cable service provider may terminate its existing franchise  
2 under this subsection by providing written notice to the  
3 Secretary of State and the affected municipality or county  
4 within 180 days after becoming eligible to elect to terminate  
5 it existing franchise. The municipal or county franchise is  
6 terminated on the date the ordinance or statutory certificate  
7 of franchise authority is granted.

8 610.1105 Franchise fee prohibited.--Except as  
9 otherwise provided in this chapter, the department may not  
10 impose any taxes, fees, charges, or other impositions on a  
11 cable service provider as a condition for the issuance of an  
12 ordinance or statutory certificate of franchise authority.  
13 Except as otherwise provided in this chapter, no municipality  
14 or county may impose any taxes, fees, charges, or other  
15 exactions on certificateholders in connection with use of  
16 public right-of-way as a condition of a certificateholder  
17 doing business in the municipality or county, or otherwise,  
18 except such taxes, fees, charges, or other exactions permitted  
19 by chapter 202, s. 337.401(6), and this chapter.

20 610.1115 Customer service standards.--

21 (1) Each cable service provider shall comply with the  
22 customer service standards in 47 C.F.R. s. 76.309(c) until  
23 there are two or more providers offering cable service or  
24 competitive video programming service in the relevant service  
25 area.

26 (2) The Department of Agriculture and Consumer  
27 Services shall receive service quality complaints from  
28 customers of a statutory certificateholder. The Department of  
29 Agriculture and Consumer Services may adopt any procedural  
30 rules pursuant to ss. 120.536(1) and 120.54 necessary to  
31 implement this section.

1           (3) The Department of Agriculture and Consumer  
2 Services shall address customer service complaints  
3 expeditiously by assisting with the resolution of such  
4 complaints between the complainant and the certificateholder.

5           610.112 Public, educational, and governmental access  
6 channels.--

7           (1) A certificateholder, not later than 180 days  
8 following a request by a municipality or county within whose  
9 jurisdiction the certificateholder is providing cable service,  
10 shall designate a sufficient amount of capacity on its network  
11 to allow the provision of public, educational, and  
12 governmental access channels for noncommercial programming as  
13 set forth in this section and in a municipal or county  
14 franchise pursuant to s. 610.1075(1).

15           (2) A certificateholder shall designate a sufficient  
16 amount of capacity on its network to allow the provision of  
17 the same number of public, educational, and governmental  
18 access channels or functional equivalent that a municipality  
19 or county has activated under the incumbent cable service  
20 provider's franchise agreement as of January 1, 2007, or the  
21 number of channels or capacity set forth in paragraphs (3)(a)  
22 and (b) and as limited by s. 610.1075(1). For the purposes of  
23 this section, a public, educational, or governmental channel  
24 is deemed activated if the channel is being used for public,  
25 educational, or governmental programming within the  
26 municipality or county for at least 8 hours per day of locally  
27 produced original programming, excluding without limitation  
28 repeat and character-generated programming, for any  
29 6-consecutive-month period. The municipality or county may  
30 request additional channels or functional equivalent permitted  
31

1 under the incumbent cable service provider's franchise  
2 agreement as of January 1, 2007, as limited by s. 610.1075(1).

3 (3)(a) If a municipality or county did not have  
4 public, educational, or governmental access channels activated  
5 under the incumbent cable service provider's franchise  
6 agreement as of July 1, 2007, not later than 12 months  
7 following a request by the municipality or county within whose  
8 jurisdiction a certificateholder is providing cable service,  
9 the cable service provider shall furnish:

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

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

16 (b) The limits in subparagraphs (a)1. and 2. shall  
17 constitute the total number of public, educational, or  
18 governmental channels that may be designated on any cable  
19 service provider's network using a single headend, or on all  
20 commonly owned cable service provider's networks that share a  
21 common headend, regardless of the number of cities or counties  
22 served from such headend; provided further, that the  
23 populations of all municipalities and counties served by such  
24 provider's networks shall be aggregated for purposes of  
25 applying these limits.

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

30 (4) Any public, educational, or governmental channel  
31 provided pursuant to this section that is not programmed by

1 the municipality or county for at least 8 hours a day of  
2 locally produced original programming, not excluding without  
3 limitation repeal and character-generated programming, for any  
4 six consecutive week period shall no longer be made available  
5 to the municipality or county but may be programmed at the  
6 cable service provider's discretion.

7 (5) The operation of any public, educational, or  
8 governmental access channel or functional equivalent provided  
9 under this section shall be the responsibility of the  
10 municipality or county receiving the benefit of such channel  
11 or capacity equivalent, and a certificateholder bears only the  
12 responsibility for the transmission of such channel content. A  
13 certificateholder shall be responsible for providing the  
14 connectivity to each public, educational, or governmental  
15 access channel distribution point up to the first 125 feet  
16 from the certificateholder's activated cable transmission  
17 system. The municipality or county shall be responsible for  
18 any and all connectivity beyond the first 125 feet.

19 (6) The municipality or county shall ensure that all  
20 transmissions, content, or programming to be transmitted over  
21 a channel or facility by a certificateholder are provided or  
22 submitted to the cable service provider in a manner or form  
23 that is capable of being accepted and transmitted by a  
24 provider without any requirement for additional alteration or  
25 change in the content by the provider over the provider's  
26 network and is compatible with the technology or protocol used  
27 by the cable service provider to deliver services. The  
28 provision of public, educational, or governmental content to  
29 the provider constitutes authorization for the provider to  
30 carry such content, including, at the provider's option,  
31

1 authorization to carry the content beyond the jurisdictional  
2 boundaries of the municipality or county.

3 (7) Where technically feasible, a certificateholder  
4 and an incumbent cable service provider shall use reasonable  
5 efforts to interconnect their cable systems for the purpose of  
6 providing public, educational, and governmental programming.  
7 Interconnection may be accomplished by direct cable, microwave  
8 link, satellite, or other reasonable method of connection. The  
9 party seeking interconnection shall pay the reasonable costs  
10 associated with establishing and maintaining such  
11 interconnection.

12 (8) A certificateholder is not required to  
13 interconnect for, or otherwise transmit, public, educational,  
14 and governmental content that is branded with the logo, name,  
15 or other identifying marks of another cable service provider,  
16 and a municipality or county may require a cable service  
17 provider to remove its logo, name, or other identifying marks  
18 from public, educational, and governmental content that is to  
19 be made available to another provider.

20 (9) A court of competent jurisdiction shall have  
21 exclusive jurisdiction to enforce any requirement under this  
22 section.

23 610.113 Nondiscrimination by municipality or county.--

24 (1) A municipality or county shall allow a  
25 certificateholder to install, construct, and maintain a  
26 network within a public right-of-way and shall provide a  
27 certificateholder with nondiscriminatory and competitively  
28 neutral access to the public right-of-way in accordance with  
29 the provisions of s. 337.401. All use of a public right-of-way  
30 by a certificateholder is nonexclusive.

31

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

3           (a) The authorization or placement of a network in a  
4 public right-of-way;

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

6           (c) Utility pole attachment terms.

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

12           610.114 Limitation on local authority.--

13           (1) A municipality or county may not impose additional  
14 requirements on a certificateholder, including, but not  
15 limited to, financial, operational, and administrative  
16 requirements, except as expressly permitted by this chapter. A  
17 municipality or county may not impose on activities of a  
18 certificateholder a requirement:

19           (a) That particular business offices be located in the  
20 municipality or county;

21           (b) Regarding the filing of reports and documents with  
22 the municipality or county that are not required by state or  
23 federal law and that are not related to the use of the public  
24 right-of-way. Reports and documents other than schematics  
25 indicating the location of facilities for a specific site that  
26 are provided in the normal course of the municipality's or  
27 county's permitting process, that are authorized by s. 337.401  
28 for communications services providers, or that are otherwise  
29 required in the normal course of such permitting process shall  
30 not be considered related to the use of the public  
31 right-of-way for communications services providers. A

1 municipality or county may not request information concerning  
2 the capacity or technical configuration of a  
3 certificateholder's facilities;

4 (c) For the inspection of a certificateholder's  
5 business records; or

6 (d) For the approval of transfers of ownership or  
7 control of a certificateholder's business, except a  
8 municipality or county may require a certificateholder to  
9 provide notice of a transfer within a reasonable time period.

10 (2) Notwithstanding any other provision of law, a  
11 municipality or county may require the issuance of a permit in  
12 accordance with and subject to s. 337.401 to a  
13 certificateholder that is placing and maintaining facilities  
14 in or on a public right-of-way in the municipality or county.  
15 In accordance with s. 337.402, the permit may require the  
16 permitholder to be responsible, at the permitholder's expense,  
17 for any damage resulting from the issuance of such permit and  
18 for restoring the public right-of-way to a substantially  
19 similar condition to that of the public right-of-way before  
20 installation of such facilities. The terms of the permit shall  
21 be consistent with construction permits issued to other  
22 providers of communications services placing or maintaining  
23 communications facilities in a public right-of-way.

24 610.115 Discrimination prohibited.--

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

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

31

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

5           (4) For purposes of determining whether a  
6 certificateholder has violated subsection (2), the  
7 certificateholder shall have a reasonable time not to exceed 3  
8 years to deploy service pursuant to 47 U.S.C. s. 541(a)(4)(A)  
9 to those customers within the service areas designated in s.  
10 610.107(1)(d) and (5) or s. 610.108(3)(d) and (5). Except for  
11 satellite service, a competitive video service provider may  
12 satisfy the requirements of this section through the use of  
13 alternative technology that offers service, functionality, and  
14 content which is demonstrably similar to that provided through  
15 the provider's video service system and may include a  
16 technology that does not require the use of any public  
17 right-of-way. The technology used to comply with the  
18 requirements of this section shall be subject to all the  
19 requirements of this act. In no event shall a cable service  
20 provider be required to offer or provide service to an end  
21 user residing in an area with a density of fewer than 20 homes  
22 per mile from the provider's nearest distribution plant.

23           (5) The Department of Agriculture and Consumer  
24 Services may adopt any procedural rules pursuant to ss.  
25 120.536(1) and 120.54 necessary to implement this section.

26           610.116 Compliance.--If a certificateholder is found  
27 by a court of competent jurisdiction to not comply with the  
28 requirements of this chapter, the certificateholder shall have  
29 a reasonable period of time, as specified by the court, to  
30 cure such noncompliance.

31

1           610.117 Applicability to competitive video programming  
2 services.--A provider of competitive video programming  
3 services shall apply for and obtain an ordinance or statutory  
4 certificate of franchise authority under ss. 610.102-610.117,  
5 including all rights and obligations associated therewith,  
6 before providing service in the state, notwithstanding that  
7 competitive video programming service may not be a cable  
8 service as defined in s. 610.103. For purposes of ss.  
9 610.102-610.117, the term "competitive video programming  
10 services" means video programming provided through wireline  
11 facilities located at least in part of the public right-of-way  
12 without regard to delivery technology, including Internet  
13 protocol technology, provided that this definition does not  
14 include any video programming service provided by a commercial  
15 mobile service provider defined in 47 U.S.C. s. 322(b).

16           610.118 Enforcement limitations.--Notwithstanding any  
17 of the provisions of ss. 610.102-610.116, no franchising  
18 authority may enforce any term, condition, or requirement of  
19 any franchise agreement that is more burdensome than the  
20 terms, conditions, or requirements imposed on any other  
21 certificateholder whether by franchise agreement, ordinance,  
22 or statutory certificate.

23           610.119 Severability.--If any provision of ss.  
24 610.102-610.117 or the application thereof to any person or  
25 circumstance is held invalid, such invalidity shall not affect  
26 other provisions or application of ss. 610.102-610.117 that  
27 can be given effect without the invalid provision or  
28 application, and to this end the provisions of ss.  
29 610.102-610.116 are severable. If an incumbent cable service  
30 provider is denied its legal right to terminate its existing  
31 cable franchise agreement under section 610.109(2), any

1 certificateholder authorized to provide or providing cable  
2 services within all or parts of the affected service areas  
3 shall also comply with the terms and conditions applicable to  
4 the incumbent cable service provider until the incumbent's  
5 existing cable franchise agreement expires or is terminated,  
6 whichever event occurs earlier.

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

9 364.1605 Voice competition.--

10 (1) In addition to the duties established under this  
11 chapter, an entity that is an incumbent local exchange  
12 carrier, as defined in 47 U.S.C. s. 251(h), as of July 1,  
13 2007, and any affiliate of such entity that provides wireline  
14 voice service within the service territory of such incumbent  
15 local exchange carrier, regardless of the technology, shall  
16 owe:

17 (a) The duty to establish physical connections with  
18 its wireline facilities pursuant to s. 201 of the  
19 Communications Act of 1934 and the rules of the Federal  
20 Communications Commission adopted under that section.

21 (b) The duties owed by an incumbent local exchange  
22 carrier to providers of telecommunications services, telephone  
23 exchange service, and telephone toll service with respect to  
24 its wireline facilities as provided in 47 U.S.C. s. 251 and  
25 the rules of the Federal Communications Commission adopted  
26 under that section, to any other carrier and to any  
27 facilities-based provider of Internet protocol enabled voice  
28 service. Interconnection with such entity's network may be  
29 direct or indirect and shall be at the most efficient point or  
30 points within that network and in the most efficient format,  
31 as determined by the requesting carrier or provider.

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

6           (3) A telecommunications company may use  
7 interconnection, services, and network elements obtained from  
8 an incumbent local exchange carrier, including from a rural  
9 telephone company or small local exchange telecommunications  
10 company, pursuant to 47 U.S.C. ss. 251 and 252 to provide  
11 wholesale telecommunications and telecommunications service to  
12 a provider of Internet protocol enabled voice service and  
13 exchange traffic between such provider and the public switched  
14 network.

15           (4) For purposes of this section, the term  
16 "facilities-based provider of Internet protocol enabled voice  
17 service" means an entity that provides voice-over-Internet  
18 protocol as that term is defined in federal law over a  
19 physical facility which connects to the end user's location  
20 and which such entity or an affiliate of such entity owns or  
21 over which such entity or affiliate has exclusive use. An  
22 entity or affiliate of such entity shall be considered a  
23 facilities-based provider of Internet protocol enabled voice  
24 service only in those geographic areas where such physical  
25 facilities are located.

26           Section 8. Section 166.046, Florida Statutes, is  
27 repealed.

28           Section 9. Paragraph (a) of subsection (3) of section  
29 350.81, Florida Statutes, is amended to read:

30           350.81 Communications services offered by governmental  
31 entities.--

1           (3)(a) A governmental entity that provides a cable  
2 service shall comply with the Cable Communications Policy Act  
3 of 1984, 47 U.S.C. ss. 521 et seq., the regulations issued by  
4 the Federal Communications Commission under the Cable  
5 Communications Policy Act of 1984, 47 U.S.C. ss. 521 et seq.,  
6 and all applicable state and federal rules and regulations,  
7 including, but not limited to, ~~s. 166.046~~ and those provisions  
8 of chapters 202, 212, ~~and 337,~~ and 610 which apply to a  
9 provider of the services.

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

12           364.0361 Local government authority; nondiscriminatory  
13 exercise.--A local government shall treat each  
14 telecommunications company in a nondiscriminatory manner when  
15 exercising its authority to grant franchises to a  
16 telecommunications company or to otherwise establish  
17 conditions or compensation for the use of rights-of-way or  
18 other public property by a telecommunications company. A local  
19 government may not directly or indirectly regulate the terms  
20 and conditions, including, but not limited to, the operating  
21 systems, qualifications, services, service quality, service  
22 territory, and prices, applicable to or in connection with the  
23 provision of any voice-over-Internet protocol, regardless of  
24 the platform, provider, or protocol, broadband or information  
25 service. This section does not relieve a provider from any  
26 obligations under ~~s. 166.046~~ or s. 337.401.

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