

118TH CONGRESS
1ST SESSION

H. R. 3313

To amend the Middle Class Tax Relief and Job Creation Act of 2012 to streamline the consideration by State and local governments of requests for modification of certain existing wireless facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2023

Mr. BUCSHON introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To amend the Middle Class Tax Relief and Job Creation Act of 2012 to streamline the consideration by State and local governments of requests for modification of certain existing wireless facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wireless Resiliency and
5 Flexible Investment Act of 2023”.

1 **SEC. 2. REQUESTS FOR MODIFICATION OF CERTAIN EXIST-**
2 **ING WIRELESS FACILITIES.**

3 (a) IN GENERAL.—Section 6409(a) of the Middle
4 Class Tax Relief and Job Creation Act of 2012 (47 U.S.C.
5 1455(a)) is amended—

6 (1) in paragraph (1), by striking “a State or
7 local government” and all that follows and inserting
8 the following: “a State or local government or in-
9 strumentality thereof may not deny, and shall ap-
10 prove, any eligible facilities request for a modifica-
11 tion of an existing wireless tower, base station, or el-
12 igible support structure that does not substantially
13 change the physical dimensions of such wireless
14 tower, base station, or eligible support structure.”;

15 (2) by amending paragraph (2) to read as fol-
16 lows:

17 “(2) TIMEFRAME.—

18 “(A) DEEMED APPROVAL.—If a State or
19 local government or instrumentality thereof
20 does not, before or on the date that is 60 days
21 after the date on which a requesting party sub-
22 mits to the government or instrumentality a re-
23 quest as an eligible facilities request, approve
24 the request or make the determination and pro-
25 vide the written notice described in subpara-
26 graph (B) with respect to the request, the re-

1 quest is deemed approved on the day after the
2 date that is 60 days after the date on which the
3 requesting party submits the request.

4 “(B) DETERMINATION REQUEST IS NOT
5 ELIGIBLE FACILITIES REQUEST.—

6 “(i) DETERMINATION DESCRIBED.—
7 The determination described in this sub-
8 paragraph is a determination by a State or
9 local government or instrumentality thereof
10 that a request described in subparagraph
11 (A) is not an eligible facilities request.

12 “(ii) WRITTEN NOTICE DESCRIBED.—
13 The written notice described in this sub-
14 paragraph is a written notice of the deter-
15 mination described in clause (i) provided
16 by the government or instrumentality to
17 the requesting party that clearly describes
18 the reasons why the request is not an eligi-
19 ble facilities request and includes a citation
20 to a specific provision of this subsection or
21 the regulations promulgated under this
22 subsection relied upon for the determina-
23 tion.

24 “(C) TOLLING DUE TO INCOMPLETE-
25 NESS.—

1 “(i) INITIAL REQUEST INCOM-
2 PLETE.—If, not later than 30 days after
3 the date on which a requesting party sub-
4 mits to a State or local government or in-
5 strumentality thereof a request described
6 in subparagraph (A), the government or
7 instrumentality provides to the requesting
8 party a written notice described in clause
9 (iii) with respect to the request, the 60-day
10 timeframe under subparagraph (A) is
11 tolled until the date on which the request-
12 ing party submits to the government or in-
13 strumentality a supplemental submission in
14 response to the notice.

15 “(ii) SUPPLEMENTAL SUBMISSION IN-
16 COMPLETE.—If, not later than 10 days
17 after the date on which a requesting party
18 submits to a State or local government or
19 instrumentality thereof a supplemental
20 submission in response to a written notice
21 under clause (i) with respect to a request
22 described in subparagraph (A) or a written
23 notice under this clause with respect to a
24 subsequent supplemental submission, the
25 government or instrumentality provides to

1 the requesting party a written notice de-
2 scribed in clause (iii) with respect to the
3 supplemental submission, the 60-day time-
4 frame under subparagraph (A) is further
5 tolled until the date on which the request-
6 ing party submits to the government or in-
7 strumentality a subsequent supplemental
8 submission in response to the notice.

9 “(iii) WRITTEN NOTICE DE-
10 SCRIBED.—The written notice described in
11 this clause is, with respect to a request de-
12 scribed in subparagraph (A) or a supple-
13 mental submission described in clause (i)
14 or (ii) submitted to a State or local govern-
15 ment or instrumentality thereof by a re-
16 questing party, a written notice from the
17 government or instrumentality to the re-
18 questing party—

19 “(I) stating that all of the infor-
20 mation (including any form or other
21 document) required by the govern-
22 ment or instrumentality to be sub-
23 mitted for the request to be consid-
24 ered complete has not been submitted;

1 “(II) identifying the information
2 described in subclause (I) that was
3 not submitted; and

4 “(III) including a citation to a
5 specific provision of a publicly avail-
6 able rule, regulation, or standard
7 issued by the government or instru-
8 mentality requiring that such informa-
9 tion be submitted with such a request.

10 “(iv) LIMITATION.—

11 “(I) INITIAL WRITTEN NOTICE.—

12 If a written notice provided by a State
13 or local government or instrumentality
14 thereof to a requesting party under
15 clause (i) with respect to a request de-
16 scribed in subparagraph (A) identifies
17 as not having been submitted any in-
18 formation that the government or in-
19 strumentality is prohibited by para-
20 graph (5) from requiring to be sub-
21 mitted, such notice shall be treated as
22 not having been provided to the re-
23 questing party.

24 “(II) SUBSEQUENT WRITTEN NO-
25 TICE.—If a written notice provided by

1 a State or local government or instru-
2 mentality thereof to a requesting
3 party under clause (ii) with respect to
4 a supplemental submission identifies
5 as not having been submitted any in-
6 formation that was not identified as
7 not having been submitted in the prior
8 written notice under clause (i) or (ii)
9 in response to which the supplemental
10 submission was submitted, the subse-
11 quent written notice shall be treated
12 as not having been provided to the re-
13 questing party.

14 “(D) TOLLING BY MUTUAL AGREEMENT.—

15 In addition to any tolling under subparagraph
16 (C), the 60-day timeframe under subparagraph
17 (A) may be tolled by mutual agreement between
18 the State or local government or instrumen-
19 tality thereof and the requesting party.”;

20 (3) in paragraph (3), by striking “paragraph
21 (1)” and inserting “this subsection”; and

22 (4) by adding at the end the following:

23 “(4) WHEN REQUEST CONSIDERED SUB-
24 MITTED.—

1 “(A) IN GENERAL.—For the purposes of
2 this subsection, a request described in para-
3 graph (2)(A) shall be considered submitted on
4 the date on which the requesting party takes
5 the first procedural step within the control of
6 the requesting party—

7 “(i) to submit such request in accord-
8 ance with the procedures established by the
9 government or instrumentality for the re-
10 view and approval of such a request; or

11 “(ii) in the case of a government or
12 instrumentality that has not established
13 specific procedures for the review and ap-
14 proval of such a request, to submit to the
15 government or instrumentality the type of
16 filing that is typically required to initiate a
17 standard review for a similar facility or
18 structure.

19 “(B) NO PRE-APPLICATION REQUIRE-
20 MENTS.—A State or local government or instru-
21 mentality thereof may not require a requesting
22 party to undertake any process, meeting, or
23 other step prior to or as a prerequisite to a re-
24 quest being considered submitted.

1 “(5) LIMITATION ON REQUIRED DOCUMENTA-
2 TION.—A State or local government or instrumen-
3 tality thereof may require a requesting party submit-
4 ting a request as an eligible facilities request to sub-
5 mit information (including a form or other docu-
6 ment) with such request only to the extent that such
7 information is reasonably related to determining
8 whether such request is an eligible facilities request
9 and is identified in a publicly available rule, regula-
10 tion, or standard issued by the government or in-
11 strumentality requiring that such information be
12 submitted with such a request. A State or local gov-
13 ernment or instrumentality thereof may not require
14 a requesting party to submit any other documenta-
15 tion or information with such a request.

16 “(6) ENFORCEMENT.—

17 “(A) IN GENERAL.—A requesting party
18 may bring an action in any district court of the
19 United States to enforce the provisions of this
20 subsection.

21 “(B) EXPEDITED REVIEW.—A district
22 court of the United States shall consider an ac-
23 tion under subparagraph (A) on an expedited
24 basis.

25 “(7) DEFINITIONS.—In this subsection:

1 “(A) ELIGIBLE FACILITIES REQUEST.—

2 The term ‘eligible facilities request’ means any
3 request for a modification of an existing wire-
4 less tower, base station, or eligible support
5 structure that does not substantially change the
6 physical dimensions of such wireless tower, base
7 station, or eligible support structure and that
8 involves—

9 “(i) collocation of new transmission
10 equipment;

11 “(ii) removal of transmission equip-
12 ment;

13 “(iii) replacement of transmission
14 equipment; or

15 “(iv) placement, construction, or
16 modification of equipment that—

17 “(I) improves the resiliency of
18 the wireless tower, base station, or eli-
19 gible support structure; and

20 “(II) provides a direct benefit to
21 public safety, such as—

22 “(aa) providing backup
23 power for the wireless tower, base
24 station, or eligible support struc-
25 ture;

1 “(bb) hardening the wireless
2 tower, base station, or eligible
3 support structure; or

4 “(cc) providing more reliable
5 connection capability using the
6 wireless tower, base station, or
7 eligible support structure.

8 “(B) ELIGIBLE SUPPORT STRUCTURE.—
9 The term ‘eligible support structure’ means a
10 structure that, at the time when an eligible fa-
11 cilities request for a modification of such struc-
12 ture is submitted to a State or local government
13 or instrumentality thereof, supports or could
14 support transmission equipment.

15 “(C) TRANSMISSION EQUIPMENT.—The
16 term ‘transmission equipment’ has the meaning
17 given such term in section 1.6100(b)(8) of title
18 47, Code of Federal Regulations (as in effect on
19 the date of the enactment of this paragraph).”.

20 (b) IMPLEMENTATION.—Not later than 180 days
21 after the date of the enactment of this Act, the Federal
22 Communications Commission shall issue final rules to im-
23 plement the amendments made by subsection (a).

24 (c) APPLICABILITY.—The amendments made by sub-
25 section (a) shall apply with respect to any eligible facilities

1 request described in paragraph (1) of section 6409(a) of
2 the Middle Class Tax Relief and Job Creation Act of 2012
3 (47 U.S.C. 1455(a)) that is submitted (as determined
4 under paragraph (4) of such section, as added by sub-
5 section (a)) by a requesting party on or after the date
6 of the enactment of this Act.

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