

Article 7.
Enhanced Public Safety Telephone Services Act.

§ 56-484.12. Definitions.

As used in this article, unless the context requires a different meaning:

"Automatic location identification" or *"ALI"* means a telecommunications network capability that enables the automatic display of information defining the geographical location of the telephone used to place a wireless Enhanced 9-1-1 call.

"Automatic number identification" or *"ANI"* means a telecommunications network capability that enables the automatic display of the telephone number used to place a wireless Enhanced 9-1-1 call.

"Board" means the Wireless E-911 Services Board created pursuant to this article.

"Chief Information Officer" or *"CIO"* means the Chief Information Officer appointed pursuant to § 2.2-2005.

"Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by the Division.

"CMRS" means mobile telecommunications service as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"CMRS provider" means an entity authorized by the Federal Communications Commission to provide CMRS within the Commonwealth of Virginia.

"Division" means the Division of Public Safety Communications created in § 2.2-2031.

"Enhanced 9-1-1 service" or *"E-911"* means a service consisting of telephone network

features and PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1." Such service automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated and provides the capability for ANI and ALI features.

"FCC order" means Federal Communications Commission Order 94-102 (61 Federal Register 40348) and any other FCC order that affects the provision of E-911 service to CMRS customers.

"Local exchange carrier" means any public service company granted a certificate to furnish public utility service for the provision of local exchange telephone service pursuant to Chapter 10.1 (§ 56-265.1 et seq.) of Title 56.

"Place of primary use" has the meaning as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"Public safety answering point" or "PSAP" means a facility (i) equipped and staffed on a 24-hour basis to receive and process E-911 calls or (ii) that intends to receive and process E-911 calls and has notified CMRS providers in its jurisdiction of its intention to receive and process such calls.

"VoIP service" means interconnected voice over Internet protocol service as defined in the Code of Federal Regulations, Title 47, Part 9, section 9.3, as amended.

"Wireless E-911 CMRS costs" means all reasonable, direct recurring and nonrecurring capital costs and operating expenses incurred by CMRS providers in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware, software and local exchange telephone service required to provide wireless E-911 service, which have been sworn to by an authorized agent of a CMRS provider.

"Wireless E-911 fund" means a dedicated fund consisting of all moneys collected pursuant to the wireless E-911 surcharge, as well as any additional funds otherwise allocated or donated to the wireless E-911 fund.

"Wireless E-911 service" means the E-911 service required to be provided by CMRS providers pursuant to the FCC order.

"Wireless E-911 surcharge" means a monthly fee of \$0.75 billed by each CMRS provider and CMRS reseller on each CMRS number of a customer with a place of primary use in Virginia; provided, however, that any fee collected or paid pursuant to the third paragraph of subsection B of § 56-484.17 is not required to be billed.

(2000, c. 1064; 2001, c. 529; 2002, c. 68; 2003, cc. 160, 341, 981, 1021; 2005, c. 942; 2006, cc. 739, 780.)

Cross references. - As to records which are excluded from the provisions of the Virginia Freedom of Information Act, see § 2.2-3705.1 et seq.

As to the limited purposes for which "public bodies," as defined by the Virginia Freedom of Information Act, may hold closed meetings, see § 2.2-3711.

Editor's note. - Acts 2002, c. 68, cl. 2, provides: "That if a court of competent jurisdiction enters a final judgment on the merits that is based on federal law, is no longer subject to appeal, and substantially limits or impairs the essential elements of the Mobile Telecommunications Sourcing Act, 4 U.S.C. § 116 et seq., as amended, adopted by this act, then all amendments enacted by this act are declared to be invalid and have no legal effect as of the date of entry of such judgment. Further, as of the date of entry of such judgment, all amendments enacted by this act shall automatically be repealed and the law in effect immediately prior to the effective date of this act, as it pertained to the sourcing of local mobile telecommunications services, shall be effective."

Acts 2002, c. 68, cl. 4, provides: "That the provisions of this act shall be applicable to customer bills issued after August 1, 2002."

Acts 2006, c. 780, cl. 3, provides: "That the local consumer utility tax imposed on franchised cable services, local telecommunications services, and local mobile telecommunications are repealed, notwithstanding any contrary provision of any local charter, special act, or general law."

Acts 2006, c. 780, cl. 4, provides: "That all taxes and fees imposed in accordance with the provisions of any Code of Virginia section or any local charter that are repealed or otherwise amended by this act and that remain unpaid as of January 1, 2007, shall be subject to payment and collection in accordance with any administrative or judicial remedies existing prior or subsequent to this act's enactment and any bad debt associated with such taxes and fees that occurs after January 1, 2007, shall be offset against revenues collected from the Communications Sales and Use Tax."

Acts 2006, c. 780, cl. 6, provides: "That the provisions of the eighth enactment of this act shall be effective beginning on July 1, 2006, and the remaining provisions of this act, with the exception of § 58.1-656 of the Code of Virginia, shall be effective beginning on January 1, 2007."

Acts 2006, c. 780, cl. 8, provides: "That the Auditor of Public Accounts (APA) shall determine the amount of revenues received by every county, city, and town for the fiscal year commencing July 1, 2005, and ending June 30, 2006, at rates adopted on or before January 1, 2006, for each of the following taxes and fees collected by the service providers: gross receipts tax in excess of 0.5%, local consumer utility

tax, video program excise tax, cable franchise fee, and 911 taxes and fees, where they are collected. Based on each locality's percentage of the total Fiscal Year 2006 receipts from these sources, the APA shall calculate each locality's percentage share of future distributions of the Telecommunications Sales and Use Tax by the Department of Taxation. Local governments and service providers shall cooperate with the APA and provide information to him as requested. Every town with a population of less than 3,500, and any other county, city, or town whose annual audited financial statement cannot be completed by October 1, 2006, shall provide to the APA by that date a statement of its receipts during Fiscal Year 2006 from such telecommunications and cable sources, verified in writing by an independent certified public accountant. Any locality that fails to furnish the information required to make this calculation in a timely manner shall not be entitled to participate in the distribution of such tax, and its percentage share shall be disregarded in calculating the distribution to other localities. The APA or his agent shall not divulge any information acquired by him in the performances of his duties under this section that may identify specific service providers. The APA shall report his findings on a tax-by-tax basis to the chairmen of the House and Senate Finance Committees and the Department of Taxation no later than December 1, 2006. Further, the APA shall collect annually from local governments and service providers the necessary data to determine changes in: (i) market area and number of customers served, (ii) types of services available, (iii) population, and (iv) possible local reimbursement. The APA shall report his findings to the Chairmen of the House and Senate Committees on Finance no later than December 1 each year."

Acts 2006, c. 780, cl. 9, provides: "That if any of the provisions of this act are declared invalid in a nonappealable court order, then the remaining provisions of this act shall be invalid and the provisions of §§ 15.2-2108, 56-468.1, 56-484.4, 56-484.5, 56-484.6, 56-484.12, 58.1-3812, 58.1-3813.1, 58.1-3815, 58.1-3816.2, and 58.1-3818.1 through 58.1-3818.7 of the Code of Virginia and the third enactment clause of Chapter 858 of the 1972 Acts of Assembly as they were in effect immediately prior to the effective date of this act shall be given effect beginning 90 days after the nonappealable court order is issued."

Prior to the 2006 amendment by Acts 2006, c. 780, the definition of "*Place of primary use*" read as follows: "'Place of primary use' has the meaning attributed in subsection M of § 58.1-3812."

Acts 2006, Sp. Sess. I, c. 3, as amended by Acts 2007, c. 847, effective for the biennium ending June 30, 2008, in Item 413 B, provides: "B.1. It is the intent of the General Assembly that wireless 911 calls be delivered directly by the Commercial Mobile Radio Service (CMRS) provider to the local Public Safety Answering Point (PSAP), in order that such calls be answered by the local jurisdiction within which the call originates, thereby minimizing the need for call transfers whenever possible.

"2. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$3,700,000 the first year and \$3,700,000 the second year from the Wireless E-911 Fund is included in this appropriation for telecommunications to offset dispatch center operations and related costs incurred for answering wireless 911 telephone calls."

Acts 2008, c. 879, effective for the biennium ending June 30, 2010, in Item 419 B, provides: "B.1. It is the intent of the General Assembly that wireless 911 calls be delivered directly by the Commercial Mobile Radio Service (CMRS) provider to the local Public Safety Answering Point (PSAP), in order that such calls be answered by the local jurisdiction within which the call originates, thereby minimizing the need for call transfers whenever possible.

"2. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$3,700,000 the first year and \$3,700,000 the second year from the Wireless E-911 Fund is included in this appropriation for telecommunications to offset dispatch center operations and related costs incurred for answering wireless 911 telephone calls."

Acts 2008, c. 879, effective for the biennium ending June 30, 2010, in Item 431.10 B, provides:

"Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$1,750,000 the first year and \$1,750,000 the second year from Financial Assistance to Localities for Enhanced Emergency Communications dedicated special revenue shall be used to support the efforts of the Virginia Geographic Information Network, or its counterpart, for providing the development and use of spatial data to support E-911 wireless activities in partnership with Enhanced Emergency Communications Services. Funding is to be earmarked for major updates of the VBMP and digital road centerline files."

The 2001 amendments. - The 2001 amendment by c. 529 substituted "telecommunications" for "telephone" in the paragraphs defining "Automatic location identification" and "Automatic number identification," deleted "service" following "to provide CMRS" in the paragraph defining "CMRS provider," substituted "or PSAP" for "(PSAP)" in the paragraph defining "Public Safety answering point," and substituted "billed monthly on a per wireless telephone line basis by each CMRS provider and CMRS reseller to its Virginia customers" for "assessed upon each CMRS telephone number assigned by a CMRS provider" in the paragraph defining "Wireless E-911 surcharge."

The 2002 amendments. - The 2002 amendment by c. 68 rewrote the definition of "CMRS"; added the definition of "Place of primary use"; and rewrote the definition for "Wireless E-911 surcharge."

The 2003 amendments. - The 2003 amendment by c. 160 substituted "subsection M" for "subsection L" in the definition of 'place of primary use;' substituted "24-hour" for "twenty-four hour" in the definition of 'public safety answering point;' and substituted "\$.75" for "seventy-five cents" in the definition of 'wireless E-911 surcharge.'

The 2003 amendment by c. 341 in the definition of 'Public safety answering point', substituted "24-" for "twenty-four", and in the definition of "Wireless E-911 surcharge", substituted "\$.75 billed" for "seventy-five cents billed monthly."

The 2003 amendments by cc. 981 and 1021 are identical, and added the definition of 'Chief Information Officer;' deleted the definition of 'director,' which formerly read: "means the Director of the Department of Technology Planning;" substituted "24" for "twenty-four" in the definition of 'public safety answering point;' and substituted "\$.75" for "seventy-five cents" in the definition of 'wireless E-911 surcharge.'

The 2005 amendments. - The 2005 amendment by c. 942, in the definition of "Wireless E-911 surcharge," added the proviso at the end and made a minor stylistic change.

The 2006 amendments. - The 2006 amendment by c. 739 added the definition of "VoIP service"; and deleted the definition of "Wireless E-911 PSAP costs," which formerly read: "'Wireless E-911 PSAP costs' means all reasonable direct recurring and nonrecurring capital costs and operating expenses incurred by a PSAP in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware, software and local exchange telephone service required to provide wireless E-911 service and direct personnel costs incurred in receiving and dispatching wireless E-911 emergency telephone calls, which have been sworn to by an authorized agent of the PSAP."

The 2006 amendment by c. 780, effective January 1, 2007, substituted "as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended" for "attributed in subsection M of

§ 58.1-3812" in the paragraph defining "Place of primary use." See Acts 2006, c. 780, cl. 9.

Law review. - For an article, "Technology and the Law," see 32 U. Rich. L. Rev. 1383 (1998).

§ 56-484.12:1. Notice to subscribers of lack of access to E-911.

Each provider of Voice-over-Internet protocol service in the Commonwealth shall provide to its subscribers in the Commonwealth any notice that the provider is required to give to its subscribers by the Federal Communications Commission concerning a subscriber's lack of access to E-911 services. This requirement is met when a provider of Voice-over-Internet protocol service in the Commonwealth provides any such notice as required by the Federal Communications Commission.

(2006, c. 691.)

§ 56-484.12:2. Plan for access to E-911.

If the Federal Communications Commission requires all providers of Voice-over-Internet protocol service to prepare and file with it a plan setting forth how the provider proposes to develop and implement the capability for users of Voice-over-Internet protocol service to have enhanced 9-1-1 service, then any provider of Voice-over-Internet protocol service in the Commonwealth shall submit a copy of such plan to the Commission and the Board within 90 days of filing the plan with the Federal Communications Commission.

(2006, c. 691.)

§ 56-484.13. Wireless E-911 Services Board; membership; terms; compensation.

A. The Wireless E-911 Services Board is hereby created. The Board shall plan, promote and offer assistance:

1. In the statewide development, deployment, and maintenance of enhanced wireless emergency telecommunications services and technologies; and
2. In the development and deployment of enhanced wireline emergency telecommunications

services and technologies only in specific local jurisdictions that were not wireline E-911 capable by July 1, 2000.

The Board shall exercise the powers and duties conferred in this article.

B. The Wireless E-911 Services Board may promote and offer planning assistance:

1. In the statewide development, deployment, and maintenance of VoIP E-911 and any other future communications technologies accessing E-911 for emergency purposes;

2. To the Virginia Information Technologies Agency (VITA), and other stakeholder agencies, in the development and deployment of a statewide public safety network that will support future E-911 and other public safety applications; and

3. However, the Board shall seek funding from sources other than CMRS providers or customers of CMRS to support efforts that exceed the scope of wireless E-911 service.

C. The Board shall consist of 15 members as follows: the Chief Information Officer, who shall serve as chairman of the Board; the Comptroller, who shall serve as the treasurer of the Board; and the following 13 members to be appointed by the Governor: one member representing the Virginia Department of Emergency Management, one member representing the Virginia State Police, one member representing a local exchange carrier providing E-911 service in Virginia, two members representing wireless service providers authorized to do business in Virginia, three county, city or town PSAP directors or managers representing diverse regions of Virginia, one Virginia sheriff, one chief of police, one fire chief, one emergency medical services manager, and one finance officer of a county, city, or town.

D. All members appointed by the Governor shall serve five-year terms. The CIO and the Comptroller shall serve terms coincident with their terms of office. No gubernatorial appointee shall serve more than two consecutive terms.

E. A majority of the Board shall constitute a quorum. The Board shall meet at least quarterly or at the call of its chairman.

F. Members of the Board shall serve without compensation; however, members of the Board shall be reimbursed for expenses as provided in §§ 2.2-2813 through 2.2-2826.

G. The Division shall provide staff support to the Board. The Geographic Information Network Division created in § 2.2-2026 and the Virginia Department of Transportation shall provide such technical advice as the Board requires.

(2000, c. 1064; 2003, cc. 981, 1021; 2006, c. 739.)

Editor's note. - Acts 2008, c. 879, effective for the biennium ending June 30, 2010, in Item 431.10 C, provides: "Notwithstanding the provisions of § 56-484.13, Code of Virginia, the E-911 Services Board shall consist of 16 members as follows: the Director of the Virginia Department of Emergency Management, who shall serve as chairman of the Board; the Comptroller, who shall serve as the treasurer of the Board; the Chief Information Officer, and the following 13 members to be appointed by the Governor: one member representing the Virginia Department of Emergency Management, one member representing the Virginia State Police, one member representing a local exchange carrier providing E-911 service in Virginia, two members representing wireless service providers authorized to do business in Virginia, three county, city or town PSAP directors or managers representing diverse regions of Virginia, one Virginia sheriff, one chief of police, one fire chief, one emergency medical services manager, and one finance officer of a county, city, or town."

The 2003 amendments. - The 2003 amendments by cc. 981 and 1021 are identical, and in subsection B, substituted "14" for "fourteen," and "Chief Information Officer" for "Director of the Department of Technology Planning;" substituted "CIO" for "Director of the Department of Technology Planning" in subsection C; and inserted the first sentence in subsection F.

The 2006 amendments. - The 2006 amendment by c. 739 rewrote the section.

§ 56-484.14. Powers and duties of Wireless E-911 Services Board.

The Board shall have the power and duty to:

1. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, including purchase agreements payable from (i) the Wireless E-911 Fund and (ii) other moneys appropriated for the provision of enhanced 9-1-1 services.
2. Pursue all legal remedies to enforce any provision of this article, or any contract entered into pursuant to this article.
3. Develop a comprehensive, statewide enhanced 9-1-1 plan for wireless E-911, VoIP E-911, and any other future communications technologies accessing E-911 for emergency purposes. In constructing and periodically updating this plan as appropriate, the Board shall monitor trends and advances in enhanced wireless, VoIP, and other emergency telecommunications technologies, plan and forecast future needs for these enhanced technologies, and formulate strategies for the efficient and effective delivery of enhanced 9-1-1 services in the future with the exclusion of traditional circuit-switched wireline 9-1-1 service.
4. Grant such extensions of time for compliance with the provisions of § 56-484.16 as the Board deems appropriate.

5. Take all steps necessary to inform the public of the use of the digits "9-1-1" as the designated emergency telephone number and the use of the digits "#-7-7" as a designated non-emergency telephone number.

6. Report annually to the Governor, the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission on (i) the state of enhanced 9-1-1 services in the Commonwealth, (ii) the impact of, or need for, legislation affecting enhanced 9-1-1 services in the Commonwealth, and (iii) the need for changes in the E-911 funding mechanism provided to the Board, as appropriate.

7. Provide advisory technical assistance to PSAPs and state and local law enforcement, and fire and emergency medical service agencies, upon request.

8. Collect, distribute, and withhold moneys from the Wireless E-911 Fund as provided in this article.

9. Develop a comprehensive single, statewide electronic addressing database to support geographic data and statewide base map data programs pursuant to § 2.2-2027.

10. Receive such funds as may be appropriated for purposes consistent with this article and such gifts, donations, grants, bequests, or other funds as may be received from, applied for or offered by either public or private sources.

11. Manage other moneys appropriated for the provision of enhanced emergency telecommunications services.

12. Perform all acts necessary, convenient or desirable to carrying out the purposes of this article.

13. Drawing from the work of E-911 professional organizations, in its sole discretion, publish best practices for PSAPs. These best practices shall be voluntary and recommended by a subcommittee composed of PSAP representatives.

14. Monitor developments in enhanced 9-1-1 service and multiline telephone systems and the impact of such technologies upon the implementation of Article 8 (§ 56-484.19 et seq.) of Chapter 15 of Title 56. The Board shall include its assessment of such impact in the annual report filed pursuant to subdivision 6.

(2000, c. 1064; 2005, c. 942; 2006, c. 739; 2007, c. 427.)

The 2005 amendments. - The 2005 amendment by c. 942 inserted subdivisions 10 and 11, and redesignated former subdivisions 10 and 11 as present subdivisions 12 and 13.

The 2006 amendments. - The 2006 amendment by c. 739 rewrote the section.

The 2007 amendments. - The 2007 amendment by c. 427 added subdivision 14.

§ 56-484.15. Wireless Carrier E-911 Cost Recovery Subcommittee established.

A. There is hereby established a Wireless Carrier E-911 Cost Recovery Subcommittee of the Board. The Subcommittee shall (i) meet only to determine whether costs submitted by CMRS providers are reasonable and direct to the provision of wireless E-911 service and (ii) review only those documents necessary to determine whether costs submitted by CMRS providers are reasonable and direct to the provision of wireless E-911 service.

B. The Subcommittee shall consist of the following seven members from the Board: the representative of the Virginia State Police; the three PSAP directors or managers; the finance officer of a county, city or town; the CIO, who shall serve as the Subcommittee's chairman; and the Comptroller.

C. Staff to the Subcommittee shall be provided by the Division of Public Safety Communications created pursuant to § 2.2-2031.

D. Unless otherwise ordered by a court of competent jurisdiction, no member or staff of the Subcommittee shall release or disclose the contents of documents used to determine whether costs submitted by CMRS providers are reasonable and direct to the provision of wireless E-911 service.

(2000, c. 1064; 2003, cc. 981, 1021; 2006, c. 739.)

Cross references. - As to records which are excluded from the provisions of the Virginia Freedom of Information Act, see § 2.2-3705.1 et seq.

As to the limited purposes for which "public bodies," as defined by the Virginia Freedom of Information Act, may hold closed meetings, see § 2.2-3711.

The 2003 amendments. - The 2003 amendments by cc. 981 and 1021 are identical, and substituted "CIO" for "Director of the Department of Technology Planning" in subsection B; and substituted "§ 2.2-2026" for "§ 2.2-1710" in subsection C.

The 2006 amendments. - The 2006 amendment by c. 739, in subsection B, substituted "seven" for "six" preceding "members" and "three" for "two" preceding "PSAP directors."

§ 56-484.16. Local emergency telecommunications requirements; use of digits "9-1-1."

A. On or before July 1, 2003, every county, city or town in the Commonwealth shall be served by an E-911 system, unless an extension of time has been granted by the Board.

B. The digits "9-1-1" shall be the designated emergency telephone number in Virginia. No public safety agency shall advertise or otherwise promote the use of any number for emergency response service other than "9-1-1".

(2000, c. 1064; 2001, c. 713; 2005, c. 942.)

The 2001 amendments. - The 2001 amendment by c. 713 inserted "Except as provided in subsection D" at the beginning of the first and second sentences of subsection A, and at the beginning of subsection B; and added subsection D.

The 2005 amendments. - The 2005 amendment by c. 942 rewrote the section.

§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in § 2.2-2031, moneys in the Fund shall be used for the purposes stated in subsections C through D. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Information Officer of the Commonwealth.

B. Each CMRS provider shall collect a wireless E-911 surcharge from each of its customers whose place of primary use is within the Commonwealth. In addition, the wireless E-911 surcharge shall be imposed on wireless customers who purchase prepaid CMRS service, subject to the provisions in this subsection. However, no surcharge shall be imposed on federal, state and local government agencies. A payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Board for deposit in the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the amount collected to defray the costs of collecting the surcharges. State and local taxes shall not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers who do not purchase CMRS

service on a prepaid basis shall be subject to the provisions of the federal Mobile Telecommunications Sourcing Act (4 U.S.C. § 116 et seq., as amended).

For CMRS customers who do not purchase CMRS service on a prepaid basis, the CMRS provider and CMRS reseller shall collect the surcharge through regular periodic billing.

For CMRS customers who purchase CMRS service on a prepaid basis, the wireless E-911 surcharge shall be determined according to one of the following methodologies:

a. The CMRS provider and CMRS reseller shall collect, on a monthly basis, the wireless E-911 surcharge from each active prepaid customer whose account balance is equal to or greater than the amount of the surcharge; or

b. The CMRS provider and CMRS reseller shall divide its total earned prepaid wireless telephone revenue with respect to prepaid customers in the Commonwealth within the monthly E-911 reporting period by \$50, multiply the quotient by the surcharge amount, and pay the resulting amount to the Board without collecting a separate charge from its prepaid customers for such amount; or

c. The CMRS provider and CMRS reseller shall collect the surcharge at the point of sale.

Collection of the wireless E-911 surcharge from or with respect to prepaid customers shall not reduce the sales price for purposes of taxes which are collected at point of sale.

C. Sixty percent of the Wireless E-911 Fund shall be distributed on a monthly basis to the PSAPs according to the percentage of recurring wireless E-911 funding received by the PSAP as determined by the Board. The Board shall calculate the distribution percentage for each PSAP at the start of each fiscal year based on the cost and call load data from the previous fiscal year and implement this percentage by October 1 of the current year. Using 30% of the Wireless E-911 Fund, the Board shall provide full payment to CMRS providers of all wireless E-911 CMRS costs. For these purposes each CMRS provider shall submit to the Board on or before December 31 of each year an estimate of wireless E-911 CMRS costs it expects to incur during the next fiscal year of counties and municipalities in whose jurisdiction it operates. The Board shall review such estimates and advise each CMRS provider on or before the following March 1 whether its estimate qualifies for payment hereunder and whether the Wireless E-911 Fund is expected to be sufficient for such payment during said fiscal year. The remaining 10% of the Fund and any remaining funds for the previous fiscal year from the 30% for CMRS providers shall be distributed to PSAPs or on behalf of PSAPs based on grant requests received by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from the Fund, including procedures for determining the amount of a grant and payment schedule; however, the grants must be to the benefit of wireless E-911. Any grant funding that has not been

committed by the Board by the end of the fiscal year shall be distributed to the PSAPs based on the same distribution percentage used during the fiscal year in which the funding was collected; however, the Board may retain some or all of this uncommitted funding for an identified funding need in the next fiscal year.

D. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the grant funding received by all recipients to ensure it was utilized in accordance with the grant requirements. For the fiscal year ending June 30, 2005, the Board shall determine whether qualifying payments to PSAP operators and CMRS providers during the preceding fiscal year exceeded or were less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or CMRS provider. Each funding recipient shall provide such verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to payments during the then current fiscal year, on such schedule as the Board shall determine. If payments are less than the actual costs reported, the Board may include the additional funding in the then current fiscal year.

E. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the Wireless E-911 Fund. The cost of such audit shall be borne by the Board and be payable from the Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission.

F. The special tax authorized by § 58.1-1730 shall not be imposed on consumers of CMRS.

(2000, c. 1064; 2001, c. 529; 2002, c. 68; 2003, c. 341; 2004, c. 167; 2005, c. 942; 2006, cc. 739, 780.)

Cross references. - As to the establishment of the Division of Public Safety Communications within the Virginia Information Technologies Agency, see § 2.2-2026.

Editor's note. - Acts 2002, c. 68, cl. 2, provides: "That if a court of competent jurisdiction enters a final judgment on the merits that is based on federal law, is no longer subject to appeal, and substantially limits or impairs the essential elements of the Mobile Telecommunications Sourcing Act, 4 U.S.C. § 116 et seq., as amended, adopted by this act, then all amendments enacted by this act are declared to be invalid and have no legal effect as of the date of entry of such judgment. Further, as of the date of entry of such judgment, all amendments enacted by this act shall automatically be repealed and the law in effect immediately prior to the effective date of this act, as it pertained to the sourcing of local mobile telecommunications services, shall be effective."

Acts 2002, c. 68, cl. 4, provides: "That the provisions of this act shall be applicable to customer bills issued after August 1, 2002."

Acts 2006, c. 780, cl. 4, provides: "That all taxes and fees imposed in accordance with the provisions

of any Code of Virginia section or any local charter that are repealed or otherwise amended by this act and that remain unpaid as of January 1, 2007, shall be subject to payment and collection in accordance with any administrative or judicial remedies existing prior or subsequent to this act's enactment and any bad debt associated with such taxes and fees that occurs after January 1, 2007, shall be offset against revenues collected from the Communications Sales and Use Tax."

Acts 2006, c. 780, cl. 6, provides: "That the provisions of the eighth enactment of this act shall be effective beginning on July 1, 2006, and the remaining provisions of this act, with the exception of § 58.1-656 of the Code of Virginia, shall be effective beginning on January 1, 2007."

Acts 2006, c. 780, cl. 8, provides: "That the Auditor of Public Accounts (APA) shall determine the amount of revenues received by every county, city, and town for the fiscal year commencing July 1, 2005, and ending June 30, 2006, at rates adopted on or before January 1, 2006, for each of the following taxes and fees collected by the service providers: gross receipts tax in excess of 0.5%, local consumer utility tax, video program excise tax, cable franchise fee, and 911 taxes and fees, where they are collected. Based on each locality's percentage of the total Fiscal Year 2006 receipts from these sources, the APA shall calculate each locality's percentage share of future distributions of the Telecommunications Sales and Use Tax by the Department of Taxation. Local governments and service providers shall cooperate with the APA and provide information to him as requested. Every town with a population of less than 3,500, and any other county, city, or town whose annual audited financial statement cannot be completed by October 1, 2006, shall provide to the APA by that date a statement of its receipts during Fiscal Year 2006 from such telecommunications and cable sources, verified in writing by an independent certified public accountant. Any locality that fails to furnish the information required to make this calculation in a timely manner shall not be entitled to participate in the distribution of such tax, and its percentage share shall be disregarded in calculating the distribution to other localities. The APA or his agent shall not divulge any information acquired by him in the performances of his duties under this section that may identify specific service providers. The APA shall report his findings on a tax-by-tax basis to the chairmen of the House and Senate Finance Committees and the Department of Taxation no later than December 1, 2006. Further, the APA shall collect annually from local governments and service providers the necessary data to determine changes in: (i) market area and number of customers served, (ii) types of services available, (iii) population, and (iv) possible local reimbursement. The APA shall report his findings to the Chairmen of the House and Senate Committees on Finance no later than December 1 each year."

Acts 2006, c. 780, cl. 9, provides: "That if any of the provisions of this act are declared invalid in a nonappealable court order, then the remaining provisions of this act shall be invalid and the provisions of §§ 15.2-2108, 56-468.1, 56-484.4, 56-484.5, 56-484.6, 56-484.12, 58.1-3812, 58.1-3813.1, 58.1-3815, 58.1-3816.2, and 58.1-3818.1 through 58.1-3818.7 of the Code of Virginia and the third enactment clause of Chapter 858 of the 1972 Acts of Assembly as they were in effect immediately prior to the effective date of this act shall be given effect beginning 90 days after the nonappealable court order is issued."

The 2001 amendments. - The 2001 amendment by c. 529 added subsection I.

The 2002 amendments. - The 2002 amendment by c. 68, in subsection B, substituted "place of primary use" for "billing address" in the first sentence, substituted "thirty" for "30" in the second sentence, and added the last sentence.

The 2003 amendments. - The 2003 amendment by c. 341 in subsection B, substituted "30" for "thirty", "equal to" for "not to exceed", and added the second paragraph; and in subsection G, substituted "90" for "ninety."

The 2004 amendments. - The 2004 amendment by c. 167, in subsection D, deleted "in four equal payments" following "CMRS provider" and added "or on an alternate schedule approved by the Board" at the end of the first sentence and substituted "actually incurred costs have been paid" for "qualifying payments have been made" in the last sentence.

The 2005 amendments. - The 2005 amendment by c. 942 substituted "Chief Information Officer of the Commonwealth" for "Director" in the last sentence of subsection A; rewrote subsection B; in subsection D, substituted "may be included in future funding requests to the Board" for "shall be carried forward for payment during the next calendar quarter" in the next-to-last sentence and deleted the last sentence, which formerly read: "Such carry-forward process shall continue until all actually incurred costs have been paid"; in subsection E, substituted "After the end of each fiscal year, on a schedule adopted by the Board" for "During the period July 1 through September 30 of each year" in the first sentence and added the last sentence; in subsection F, substituted "subsection C" for "subsection A" in two places and divided the former subsection into the present first and last sentences by substituting "any PSAP or CMRS costs submitted after the start of the fiscal year shall not be considered by the Board. Qualifying" for "qualifying"; and substituted "subsection" for "section" in the last sentence of subsection G.

The 2006 amendments. - The 2006 amendment by c. 739 rewrote the section.

The 2006 amendment by c. 780, effective January 1, 2007, substituted "federal Mobile Telecommunications Sourcing Act (4 U.S.C. § 116 et seq., as amended)" for "subsection K of § 58.1-3812" in the last sentence of the first paragraph of subsection B; and substituted "§ 58.1-1730" for "§ 58.1-3813.1" in subsection F. See Acts 2006, c. 780, cl. 9.

§ 56-484.18. Designation of official State Police access number; blocking caller identification prohibited.

A. Telephone number #77 is hereby designated as an official access number for wireless telephone usage in the Commonwealth for access to designated offices of the Department of State Police and shall be used solely for official business.

B. No caller shall block caller identification or other essential information on calls made to telephone number #77. Where technically feasible, wireline and wireless telephone providers shall provide calling party number identification for all wireless #77 calls. Any communications services provider, as defined in § 58.1-647, including mobile service, in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to #77 calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

(2000, c. 771; 2006, c. 780.)

The number of this section was assigned by the Virginia Code Commission, the number in the 2000 act having been 56-484.12.

Editor's note. - Acts 2006, c. 780, cl. 4, provides: "That all taxes and fees imposed in accordance with the provisions of any Code of Virginia section or any local charter that are repealed or otherwise amended by this act and that remain unpaid as of January 1, 2007, shall be subject to payment and collection in accordance with any administrative or judicial remedies existing prior or subsequent to this act's enactment and any bad debt associated with such taxes and fees that occurs after January 1, 2007, shall be offset against revenues collected from the Communications Sales and Use Tax."

Acts 2006, c. 780, cl. 6, provides: "That the provisions of the eighth enactment of this act shall be effective beginning on July 1, 2006, and the remaining provisions of this act, with the exception of § 58.1-656 of the Code of Virginia, shall be effective beginning on January 1, 2007."

Acts 2006, c. 780, cl. 8, provides: "That the Auditor of Public Accounts (APA) shall determine the amount of revenues received by every county, city, and town for the fiscal year commencing July 1, 2005, and ending June 30, 2006, at rates adopted on or before January 1, 2006, for each of the following taxes and fees collected by the service providers: gross receipts tax in excess of 0.5%, local consumer utility tax, video program excise tax, cable franchise fee, and 911 taxes and fees, where they are collected. Based on each locality's percentage of the total Fiscal Year 2006 receipts from these sources, the APA shall calculate each locality's percentage share of future distributions of the Telecommunications Sales and Use Tax by the Department of Taxation. Local governments and service providers shall cooperate with the APA and provide information to him as requested. Every town with a population of less than 3,500, and any other county, city, or town whose annual audited financial statement cannot be completed by October 1, 2006, shall provide to the APA by that date a statement of its receipts during Fiscal Year 2006 from such telecommunications and cable sources, verified in writing by an independent certified public accountant. Any locality that fails to furnish the information required to make this calculation in a timely manner shall not be entitled to participate in the distribution of such tax, and its percentage share shall be disregarded in calculating the distribution to other localities. The APA or his agent shall not divulge any information acquired by him in the performances of his duties under this section that may identify specific service providers. The APA shall report his findings on a tax-by-tax basis to the chairmen of the House and Senate Finance Committees and the Department of Taxation no later than December 1, 2006. Further, the APA shall collect annually from local governments and service providers the necessary data to determine changes in: (i) market area and number of customers served, (ii) types of services available, (iii) population, and (iv) possible local reimbursement. The APA shall report his findings to the Chairmen of the House and Senate Committees on Finance no later than December 1 each year."

Acts 2006, c. 780, cl. 9, provides: "That if any of the provisions of this act are declared invalid in a nonappealable court order, then the remaining provisions of this act shall be invalid and the provisions of §§ 15.2-2108, 56-468.1, 56-484.4, 56-484.5, 56-484.6, 56-484.12, 58.1-3812, 58.1-3813.1, 58.1-3815, 58.1-3816.2, and 58.1-3818.1 through 58.1-3818.7 of the Code of Virginia and the third enactment clause of Chapter 858 of the 1972 Acts of Assembly as they were in effect immediately prior to the effective date of this act shall be given effect beginning 90 days after the nonappealable court order is issued."

The 2006 amendments. - The 2006 amendment by c. 780, effective January 1, 2007, substituted "communications services provider, as defined in § 58.1-647" for "provider of telecommunications service, as defined in § 58.1-3812" in the third sentence of subsection B. See Acts 2006, c. 780, cl. 9.