

**[DISCUSSION DRAFT]**

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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

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IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To amend the Middle Class Tax Relief and Job Creation Act of 2012 to streamline the consideration of requests by State and local governments for modification of certain existing wireless facilities and telecommunications service 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 “Broadband Resiliency  
5 and Flexible Investment Act”.

1 **SEC. 2. REQUESTS FOR MODIFICATION OF CERTAIN EXIST-**  
2 **ING WIRELESS AND TELECOMMUNICATIONS**  
3 **SERVICE FACILITIES.**

4 (a) IN GENERAL.— Section 6409(a) of the Middle  
5 Class Tax Relief and Job Creation Act of 2012 (47 U.S.C.  
6 1455(a)) is amended—

7 (1) in paragraph (1), by striking “a State or  
8 local government” and all that follows and inserting  
9 the following: “a State or local government or in-  
10 strumentality thereof may not deny, and shall ap-  
11 prove—

12 “(A) any complete eligible facilities request  
13 for a modification of an existing wireless tower,  
14 base station, or eligible support structure that  
15 does not substantially change the physical di-  
16 mensions of such wireless tower, base station,  
17 or eligible support structure; and

18 “(B) any complete eligible telecommuni-  
19 cations facilities request for a modification of  
20 an existing telecommunications service facility  
21 in or on eligible support infrastructure that  
22 does not substantially change the physical di-  
23 mensions of such facility.”;

24 (2) by amending paragraph (2) to read as fol-  
25 lows:

26 “(2) TIMEFRAME.—

1           “(A) IN GENERAL.—Not later than 60  
2 days after the date on which a requesting party  
3 submits to a State or local government or in-  
4 strumentality thereof a complete eligible facili-  
5 ties request or a complete eligible telecommuni-  
6 cations facilities request, the government or in-  
7 strumentality shall approve such request.

8           “(B) DEEMED APPROVAL.—If a State or  
9 local government or instrumentality thereof  
10 does not approve a complete eligible facilities  
11 request or a complete eligible telecommuni-  
12 cations facilities request by the date required  
13 under subparagraph (A), the request is deemed  
14 approved on the day after such date.

15           “(C) DETERMINATION REQUEST IS NOT AN  
16 ELIGIBLE REQUEST.—If a State or local gov-  
17 ernment or instrumentality thereof determines  
18 that a request submitted by a requesting party  
19 as an eligible facilities request or an eligible  
20 telecommunications facilities request is not an  
21 eligible facilities request or an eligible tele-  
22 communications facilities request (as the case  
23 may be), the government or instrumentality  
24 shall, not later than 60 days after the date on  
25 which the request is submitted, provide written

1 notice to the requesting party clearly describing  
2 the reasons why the request is not an eligible  
3 facilities request or an eligible telecommuni-  
4 cations facilities request and citing the provi-  
5 sions of this subsection or the regulations pro-  
6 mulgated under this subsection relied upon for  
7 the determination.”;

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

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

11 “(4) WHEN REQUEST CONSIDERED COMPLETE;  
12 SUBMITTED.—

13 “(A) WHEN REQUEST CONSIDERED COM-  
14 PLETE.—

15 “(i) IN GENERAL.—For the purposes  
16 of this subsection, a request to a State or  
17 local government or instrumentality thereof  
18 shall be considered complete if the request-  
19 ing party—

20 “(I) has taken the first proce-  
21 dural step within the control of the re-  
22 questing party—

23 “(aa) to submit such a re-  
24 quest in accordance with the pro-  
25 cedures established by the gov-

1                   ernment or instrumentality for  
2                   the review and approval of such a  
3                   request; or

4                   “*(bb)* in the case of a gov-  
5                   ernment or instrumentality that  
6                   has not established specific pro-  
7                   cedures for the review and ap-  
8                   proval of such a request, to sub-  
9                   mit to the government or instru-  
10                  mentality the type of filing that  
11                  is typically required to initiate a  
12                  standard zoning or siting review  
13                  for a similar facility or structure;  
14                  and

15                  “*(II)* has not received a written  
16                  notice from the government or instru-  
17                  mentality within 10 business days  
18                  after the date on which the request is  
19                  submitted by the requesting party—

20                  “*(aa)* stating that all of the  
21                  information (including any form  
22                  or other document) required by  
23                  the government or instrumen-  
24                  tality to be submitted for the re-  
25                  quest to be considered complete

1 has not been submitted, except  
2 that if the statement under this  
3 item refers only to missing infor-  
4 mation that the government or  
5 instrumentality is prohibited by  
6 paragraph (5) from requiring to  
7 be submitted, such notice shall be  
8 treated as not having been re-  
9 ceived by the requesting party;

10 “(bb) identifying the infor-  
11 mation described in item (aa)  
12 that was not submitted; and

13 “(cc) identifying the publicly  
14 available rules, regulations, or  
15 standards issued by the govern-  
16 ment or instrumentality requiring  
17 that such information be sub-  
18 mitted with such a request.

19 “(ii) DEFINITION.—In this subpara-  
20 graph, the term ‘the date on which the re-  
21 quest is submitted by the requesting party’  
22 means—

23 “(I) in the case of a request sub-  
24 mitted electronically, the date on  
25 which the request is transmitted;

1                   “(II) in the case of a request  
2                   submitted in person, the date on  
3                   which the request is delivered to the  
4                   individual or at the location specified  
5                   by the government or instrumentality  
6                   for in-person submission; and

7                   “(III) in the case of a request  
8                   submitted in any other manner, the  
9                   date determined under regulations  
10                  promulgated by the Commission for  
11                  the manner in which the request is  
12                  submitted.

13                  “(B) WHEN COMPLETE REQUEST CONSID-  
14                  ERED SUBMITTED.—For the purposes of this  
15                  subsection, a complete request shall be consid-  
16                  ered submitted—

17                  “(i) except as provided in clause (ii),  
18                  on the date on which the requesting party  
19                  submits to the government or instrumen-  
20                  tality all information (including any form  
21                  or other document) required by the govern-  
22                  ment or instrumentality to be submitted  
23                  for the request to be considered complete,  
24                  except for any information that the govern-  
25                  ment or instrumentality is prohibited by

1 paragraph (5) from requiring to be sub-  
2 mitted; or

3 “(ii) in the case of a request with re-  
4 spect to which all such information is not  
5 submitted and that is considered complete  
6 under subparagraph (A)(i) because the re-  
7 questing party has not received a written  
8 notice from the government or instrumen-  
9 tality within the period described in such  
10 subparagraph, on the day after the last  
11 day of such period.

12 “(C) NO PRE-APPLICATION REQUIRE-  
13 MENTS.—A State or local government or instru-  
14 mentality thereof may not require a requesting  
15 party to undertake any process, meeting, or  
16 other step prior to or as a prerequisite to a  
17 complete request being considered submitted.

18 “(5) LIMITATION ON REQUIRED DOCUMENTA-  
19 TION.—A State or local government or instrumen-  
20 tality thereof may require a requesting party submit-  
21 ting a request as an eligible facilities request or an  
22 eligible telecommunications facilities request to sub-  
23 mit information (including a form or other docu-  
24 ment) with such request only to the extent that such  
25 information is reasonably related to determining



1       whether such request is an eligible facilities request  
2       or an eligible telecommunications facilities request  
3       (as the case may be) and is identified in publicly  
4       available rules, regulations, or standards issued by  
5       the government or instrumentality requiring that  
6       such information be submitted with such a request.  
7       A State or local government or instrumentality  
8       thereof may not require a requesting party to submit  
9       any other documentation or information with such a  
10      request.

11           “(6) ENFORCEMENT.—

12                   “(A) IN GENERAL.—A requesting party  
13                   may bring an action in any district court of the  
14                   United States to enforce the provisions of this  
15                   subsection.

16                   “(B) EXPEDITED REVIEW.—A district  
17                   court of the United States shall consider an ac-  
18                   tion under subparagraph (A) on an expedited  
19                   basis.

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

21                   “(A) ELIGIBLE FACILITIES REQUEST.—  
22                   The term ‘eligible facilities request’ means any  
23                   request for a modification of an existing wire-  
24                   less tower, base station, or eligible support  
25                   structure that does not substantially change the

1 physical dimensions of such wireless tower, base  
2 station, or eligible support structure and that  
3 involves—

4 “(i) collocation of new transmission  
5 equipment;

6 “(ii) removal of transmission equip-  
7 ment;

8 “(iii) replacement of transmission  
9 equipment; or

10 “(iv) placement, construction, or  
11 modification of equipment that—

12 “(I) improves the resiliency of  
13 the wireless tower, base station, or eli-  
14 gible support structure; and

15 “(II) provides a direct benefit to  
16 public safety, such as—

17 “(aa) providing backup  
18 power for the wireless tower, base  
19 station, or eligible support struc-  
20 ture;

21 “(bb) hardening the wireless  
22 tower, base station, or eligible  
23 support structure; or

24 “(cc) providing more reliable  
25 connection capability using the

1 wireless tower, base station, or  
2 eligible support structure.

3 “(B) ELIGIBLE SUPPORT INFRASTRUC-  
4 TURE.—The term ‘eligible support infrastruc-  
5 ture’ means infrastructure that supports or  
6 houses a telecommunications service facility at  
7 the time when a complete eligible telecommuni-  
8 cations facilities request for a modification of  
9 such facility is submitted to a State or local  
10 government or instrumentality thereof.

11 “(C) ELIGIBLE SUPPORT STRUCTURE.—  
12 The term ‘eligible support structure’ means a  
13 structure that, at the time when a complete eli-  
14 gible facilities request for a modification of such  
15 structure is submitted to a State or local gov-  
16 ernment or instrumentality thereof, supports or  
17 could support a personal wireless service facil-  
18 ity.

19 “(D) ELIGIBLE TELECOMMUNICATIONS FA-  
20 CILITIES REQUEST.—The term ‘eligible tele-  
21 communications facilities request’ means any  
22 request for a modification of an existing tele-  
23 communications service facility in or on eligible  
24 support infrastructure that does not substan-

1 tially change the physical dimensions of such  
2 facility and that involves—

3 “(i) collocation of new telecommuni-  
4 cations service facility equipment;

5 “(ii) removal of telecommunications  
6 service facility equipment; or

7 “(iii) replacement of telecommuni-  
8 cations service facility equipment.

9 “(E) PERSONAL WIRELESS SERVICE.—The  
10 term ‘personal wireless service’—

11 “(i) means any service described in  
12 section 332(c)(7)(C)(i) of the Communica-  
13 tions Act of 1934 (47 U.S.C.  
14 332(c)(7)(C)(i)); and

15 “(ii) includes commercial mobile data  
16 service.

17 “(F) PERSONAL WIRELESS SERVICE FACIL-  
18 ITY.—The term ‘personal wireless service facil-  
19 ity’ means a facility used to provide personal  
20 wireless service.

21 “(G) TELECOMMUNICATIONS SERVICE FA-  
22 CILITY.—The term ‘telecommunications service  
23 facility’—

24 “(i) means a facility that is designed  
25 or used to provide or facilitate the provi-

1 sion of any interstate or intrastate tele-  
2 communications service; and

3 “(ii) includes a facility described in  
4 clause (i) that is used to provide other  
5 services.”.

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

10 (c) APPLICABILITY.—The amendments made by sub-  
11 section (a) shall apply with respect to any complete eligible  
12 facilities request or complete eligible telecommunications  
13 facilities request described under paragraph (1) of section  
14 6409(a) of the Middle Class Tax Relief and Job Creation  
15 Act of 2012 (47 U.S.C. 1455(a)) that is submitted (as  
16 determined under subparagraph (B) of paragraph (4) of  
17 such section, as added by subsection (a)) by a requesting  
18 party on or after the date of the enactment of this Act.