

[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 for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

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 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 complete eligible facilities request for a
11 modification of an existing wireless tower, base sta-
12 tion, or eligible support structure that does not sub-
13 stantially change the physical dimensions of such
14 wireless tower, base station, or eligible support
15 structure.”;

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

18 “(2) TIMEFRAME.—

19 “(A) IN GENERAL.—Not later than 60
20 days after the date on which a requesting party
21 submits to a State or local government or in-
22 strumentality thereof a complete eligible facili-
23 ties request, the government or instrumentality
24 shall approve such request.

25 “(B) DEEMED APPROVAL.—If a State or
26 local government or instrumentality thereof

1 does not approve a complete eligible facilities
2 request by the date required under subpara-
3 graph (A), the request is deemed approved on
4 the day after such date.

5 “(C) DETERMINATION REQUEST IS NOT
6 ELIGIBLE FACILITIES REQUEST.—If a State or
7 local government or instrumentality thereof de-
8 termines that a request submitted by a request-
9 ing party as an eligible facilities request is not
10 an eligible facilities request, the government or
11 instrumentality shall, not later than 60 days
12 after the date on which the request is sub-
13 mitted, provide written notice to the requesting
14 party clearly describing the reasons why the re-
15 quest is not an eligible facilities request and cit-
16 ing the provisions of this subsection or the reg-
17 ulations promulgated under this subsection re-
18 lied upon for the determination.”;

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

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

22 “(4) WHEN REQUEST CONSIDERED COMPLETE;
23 SUBMITTED.—

24 “(A) WHEN REQUEST CONSIDERED COM-
25 PLETE.—

1 “(i) IN GENERAL.—For the purposes
2 of this subsection, a request to a State or
3 local government or instrumentality thereof
4 shall be considered complete if the request-
5 ing party—

6 “(I) has taken the first proce-
7 dural step within the control of the re-
8 questing party—

9 “(aa) to submit such a re-
10 quest in accordance with the pro-
11 cedures established by the gov-
12 ernment or instrumentality for
13 the review and approval of such a
14 request; or

15 “(bb) in the case of a gov-
16 ernment or instrumentality that
17 has not established specific pro-
18 cedures for the review and ap-
19 proval of such a request, to sub-
20 mit to the government or instru-
21 mentality the type of filing that
22 is typically required to initiate a
23 standard zoning or siting review
24 for a similar facility or structure;
25 and

1 “(II) has not received a written
2 notice from the government or instru-
3 mentality within 10 business days
4 after the date on which the request is
5 submitted by the requesting party—

6 “(aa) stating that all of the
7 information (including any form
8 or other document) required by
9 the government or instrumen-
10 tality to be submitted for the re-
11 quest to be considered complete
12 has not been submitted, except
13 that if the statement under this
14 item refers only to missing infor-
15 mation that the government or
16 instrumentality is prohibited by
17 paragraph (5) from requiring to
18 be submitted, such notice shall be
19 treated as not having been re-
20 ceived by the requesting party;

21 “(bb) identifying the infor-
22 mation described in item (aa)
23 that was not submitted; and

24 “(cc) identifying the publicly
25 available rules, regulations, or

1 standards issued by the govern-
2 ment or instrumentality requiring
3 that such information be sub-
4 mitted with such a request.

5 “(ii) DEFINITION.—In this subpara-
6 graph, the term ‘the date on which the re-
7 quest is submitted by the requesting party’
8 means—

9 “(I) in the case of a request sub-
10 mitted electronically, the date on
11 which the request is transmitted;

12 “(II) in the case of a request
13 submitted in person, the date on
14 which the request is delivered to the
15 individual or at the location specified
16 by the government or instrumentality
17 for in-person submission; and

18 “(III) in the case of a request
19 submitted in any other manner, the
20 date determined under regulations
21 promulgated by the Commission for
22 the manner in which the request is
23 submitted.

24 “(B) WHEN COMPLETE REQUEST CONSID-
25 ERED SUBMITTED.—For the purposes of this

1 subsection, a complete request shall be consid-
2 ered submitted—

3 “(i) except as provided in clause (ii),
4 on the date on which the requesting party
5 submits to the government or instrumen-
6 tality all information (including any form
7 or other document) required by the govern-
8 ment or instrumentality to be submitted
9 for the request to be considered complete,
10 except for any information that the govern-
11 ment or instrumentality is prohibited by
12 paragraph (5) from requiring to be sub-
13 mitted; or

14 “(ii) in the case of a request with re-
15 spect to which all such information is not
16 submitted and that is considered complete
17 under subparagraph (A)(i) because the re-
18 questing party has not received a written
19 notice from the government or instrumen-
20 tality within the period described in such
21 subparagraph, on the day after the last
22 day of such period.

23 “(C) NO PRE-APPLICATION REQUIRE-
24 MENTS.—A State or local government or instru-
25 mentality thereof may not require a requesting

1 party to undertake any process, meeting, or
2 other step prior to or as a prerequisite to a
3 complete request being considered submitted.

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

19 “(6) ENFORCEMENT.—

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

24 “(B) EXPEDITED REVIEW.—A district
25 court of the United States shall consider an ac-

1 tion under subparagraph (A) on an expedited
2 basis.

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

4 “(A) ELIGIBLE FACILITIES REQUEST.—
5 The term ‘eligible facilities request’ means any
6 request for a modification of an existing wire-
7 less tower, base station, or eligible support
8 structure that does not substantially change the
9 physical dimensions of such wireless tower, base
10 station, or eligible support structure and that
11 involves—

12 “(i) collocation of new transmission
13 equipment;

14 “(ii) removal of transmission equip-
15 ment;

16 “(iii) replacement of transmission
17 equipment; or

18 “(iv) placement, construction, or
19 modification of equipment that—

20 “(I) improves the resiliency of
21 the wireless tower, base station, or eli-
22 gible support structure; and

23 “(II) provides a direct benefit to
24 public safety, such as—

1 “(aa) providing backup
2 power for the wireless tower, base
3 station, or eligible support struc-
4 ture;

5 “(bb) hardening the wireless
6 tower, base station, or eligible
7 support structure; or

8 “(cc) providing more reliable
9 connection capability using the
10 wireless tower, base station, or
11 eligible support structure.

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

20 “(C) PERSONAL WIRELESS SERVICE.—The
21 term ‘personal wireless service’—

22 “(i) means any service described in
23 section 332(c)(7)(C)(i) of the Communica-
24 tions Act of 1934 (47 U.S.C.
25 332(c)(7)(C)(i)); and

1 “(ii) includes commercial mobile data
2 service.

3 “(D) PERSONAL WIRELESS SERVICE FA-
4 CILITY.—The term ‘personal wireless service fa-
5 cility’ means a facility used to provide personal
6 wireless service.”.

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

11 (c) APPLICABILITY.—The amendments made by sub-
12 section (a) shall apply with respect to any complete eligible
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.