

[Third Reprint]

ASSEMBLY, No. 1100

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

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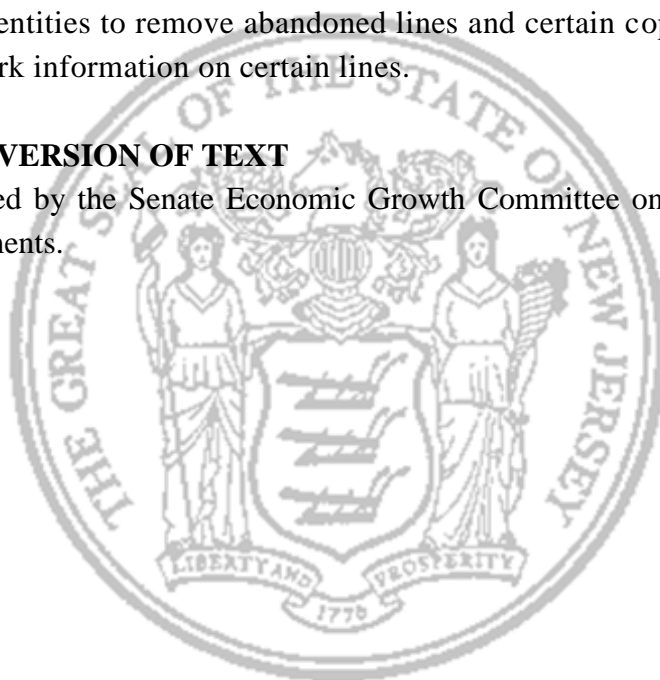
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Assemblywoman Chaparro, Assemblyman Wimberly, Assemblywomen
Lopez, Jasey, Pintor Marin, Quijano and Assemblyman Karabinchak**

SYNOPSIS

Requires entities to remove abandoned lines and certain copper telephone lines and mark information on certain lines.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on June 8, 2023, with amendments.



(Sponsorship Updated As Of: 2/6/2023)

1 AN ACT concerning the removal ³and marking³ of ³[abandoned]
 2 certain³ lines ³[by certain entities]³ and supplementing Title 48
 3 of the Revised ³[Statues] Statutes³.

4
 5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:

7
 8 1. As used in P.L. , c. (C.) (pending before the
 9 Legislature as this bill):

10 “Abandoned” means any ¹telecommunications or cable¹ line that ²;
 11 (1) is not terminated at both ends to equipment or to a customer’s
 12 premises; (2) is not maintained in a safe condition; ³[or]³ (3)² ³is not
 13 intended for future use; or (4)³ has not been in operation for a period
 14 of at least ¹[twelve] 24¹ consecutive months ¹, ²[not including:]
 15 ³[unless] and³ the owner of a structure to which the line is attached
 16 has ³[expressed interest to the entity in the future use of the line]
 17 submitted a request for removal of the line pursuant to section 3 of
 18 P.L. , c. (C.) (pending before the Legislature as this bill)³.
 19 The term “abandoned” shall not include² any line that is overlashed ²[;
 20 or any line that is connected to a residential or commercial building or
 21 structure, which line is located in an area in which the owner of the
 22 line acts as a provider of telecommunications or cable television
 23 service, and for which line a written request for removal has not been
 24 submitted pursuant to section 3 of P.L. , c. (C.) (pending
 25 before the Legislature as this bill)¹]².

26 “Board” means the Board of Public Utilities or any successor
 27 agency.

28 ¹“Cable television service” means the same as the term is defined
 29 in section 3 of P.L.1972, c.186 (C.48:5A-3).

30 “Copper telephone line” means any ³above-ground³ copper
 31 telephone line that has been retired by an incumbent local exchange
 32 telecommunications company ³in accordance with federal law, if
 33 applicable,³ and is no longer in operation. ³The term “copper
 34 telephone line” shall not include any line that is overlashed.³

35 **【“Department” means the Department of Community Affairs.】¹**

36 “Entity” means a person, municipality, utility, or corporation
 37 having ownership of a line ¹or copper telephone line¹ in this State,
 38 including ownership acquired by sale or corporate merger.

39 “Line” means an above-ground cable or wire attached to a pole,
 40 building, or other structure, used ¹or useful¹ for the provision of any
 41 telecommunications ¹service¹ or ¹[utility] cable television¹ service,
 42 and shall include any equipment or facility associated with that line
 43 attached to that pole, building, or other structure.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted December 15, 2022.

²Assembly floor amendments adopted January 26, 2023.

³Senate SEG committee amendments adopted June 8, 2023.

1 “Telecommunications service” means the ¹electronic
 2 transmission, conveyance, or routing of voice, data, audio, video, or
 3 any other information or signals to a point, or between or among
 4 points] same as the term is defined in section 3 of P.L.1972, c.186
 5 (C.48:5A-3)¹.

6 “Utility” means any “public utility” as defined in R.S.48:2-13, or
 7 “local utility” as defined in section 3.1 of P.L.1975, c.291 (C.40:55D-
 8 4).

9
 10 2. a. Notwithstanding any law, rule, regulation, or order to the
 11 contrary, and in accordance with federal law, ¹if applicable,¹ an entity
 12 owning a line that is abandoned ¹or permanently out of service¹
 13 shall ³either correct the condition causing the line to be abandoned or³
 14 remove that line from all points of attachment ², ³except as
 15 otherwise³ as³ provided under subsection d. of section 3 of P.L. ,
 16 c. (C.) (pending before the Legislature as this bill)².

17 b. ¹Notwithstanding any law, rule, regulation, or order to the
 18 contrary, when an entity that owns one or more lines in the State
 19 ceases to do business in the State, the entity shall remove the lines
 20 from all points of attachment, except not including any line for which
 21 the ownership is transferred to another entity and the line is not
 22 otherwise deemed to be abandoned.

23 c. (1)¹ Following the effective date of P.L. , c. (C.)
 24 (pending before the Legislature as this bill) and in accordance with
 25 federal law, ¹if applicable,¹ an entity that installs ¹or otherwise
 26 maintains,¹ a ¹new¹ line ¹over which¹ , which line is attached to a
 27 building or structure and owned by¹ the entity ¹has ownership¹,¹
 28 shall mark ¹both ends of¹ the end of¹ the line ¹attached to the
 29 building or structure¹ with the initials of the entity’s name,
 30 abbreviation of the entity’s name, corporate symbol, or other
 31 distinguishing mark or code by which ownership may be readily and
 32 definitely ascertained.

33 ¹(2) When an entity owns or maintains a line that is attached to a
 34 building or structure, which line was installed before the effective date
 35 of P.L. , c. (C.) (pending before the Legislature as this bill),
 36 and the entity discovers that the line does not contain the markings
 37 specified in paragraph (1) of this subsection, the entity shall mark the
 38 end of the line attached to the building or structure with the initials of
 39 the entity’s name, abbreviation of the entity’s name, corporate symbol,
 40 or other distinguishing mark or code by which ownership may be
 41 readily and definitely ascertained. Nothing in this subsection shall be
 42 construed to require an entity to affirmatively search for any unmarked
 43 lines.¹

44
 45 3. a. ¹Twelve¹ Beginning 12¹ months after the effective date of
 46 P.L. , c. (C.) (pending before the Legislature as this bill), in
 47 accordance with federal law¹, if applicable,¹ and ¹to the extent

1 permitted under¹ any applicable pole attachment agreement, the owner
2 of a pole, building, or other structure to which a suspected abandoned
3 line is attached ¹**[.]**¹ may send a ²**[written]**² request ¹, in accordance
4 with subsection c. of this section.¹ to the entity owning that line to
5 request removal if the line is found to be abandoned by the entity.
6 ²**[**¹Within five business days after receiving the written request, the
7 entity shall transmit a copy of the written request to the board.¹²**]**²

8 b. ¹**[**A pole attachment agreement or any other applicable
9 agreement established or renewed after the effective date of P.L. , c.
10 (C.) (pending before the Legislature as this bill) may include, in
11 accordance with federal law, a provision requiring an entity to submit
12 a security deposit, in an amount determined by the board or
13 department, to the owner of a pole, building, or other structure to
14 which the entity attaches a line, which shall be refunded to the entity
15 once the line is removed.**]** Beginning 12 months after the effective
16 date of P.L. , c. (C.) (pending before the Legislature as this
17 bill), any person, municipality, utility, or corporation in the State may
18 submit a ²**[written]**² request, in accordance with subsection c. of this
19 section, to the board for the removal of any suspected abandoned line,
20 provided that the line is found to be abandoned by the entity owning
21 the line. Within five business days after receiving the ²**[written]**²
22 request, the board shall transmit a written copy of the request to the
23 entity that owns the line. ²Nothing in this section shall prevent or
24 prohibit a person, municipality, utility, or corporation from directly
25 notifying an entity of a suspected abandoned line.²

26 c. (1) Within 10 months after the effective date of P.L. ,
27 c. (C.) (pending before the Legislature as this bill), the board
28 shall prescribe the form and manner in which the owner of a pole,
29 building, or structure may submit a ²**[written]**² request, pursuant to
30 subsection a. of this section, for the removal of a suspected abandoned
31 line. At a minimum, the board shall allow these requests to be
32 submitted through the official Internet website of the entity.

33 (2) Within 10 months after the effective date of P.L. ,
34 c. (C.) (pending before the Legislature as this bill), the board
35 shall prescribe the form and manner in which a person, municipality,
36 utility, or corporation may submit a ²**[written]**² request, pursuant to
37 subsection b. of this section, for the removal of a suspected abandoned
38 line. At a minimum, the board shall allow these requests to be
39 submitted through the official Internet website of the board.

40 (3) Within 11 months after the effective date of P.L. ,
41 c. (C.) (pending before the Legislature as this bill), the official
42 Internet website of the board and each entity owning one or more lines
43 in the State shall provide instructions, in a clear and conspicuous
44 manner, concerning the submission of the ²**[written]**² requests to
45 remove suspected abandoned lines.

46 d. Within 30 calendar days after the date on which an entity
47 ²**[received]** receives² a ²**[written]**² request ²to remove a suspected

1 abandoned line,² submitted pursuant to ²[subsection a. or b. of]² this
2 section, the entity shall ³investigate and determine whether the line is
3 abandoned. If the line is deemed to be abandoned, within 30 calendar
4 days after the date of such determination, the entity shall either correct
5 the condition causing the line to be abandoned or^{3 2}remove the line ³],
6 provided that the line is found to be abandoned by the entity]³.
7 e. Within 90 calendar days after the effective date of P.L. ,
8 c. (C.) (pending before the Legislature as this bill), and every 90
9 calendar days thereafter, the entity shall² submit a written report to the
10 board, which report shall include ²a description of all ³notifications,³
11 complaints ^{3 3}, and requests received by the entity ³[during the
12 previous 90-day period]³ concerning a suspected abandoned line
13 ³since the date on which the entity submitted its most recent report
14 pursuant to this subsection³. For each ³notification,³ complaint ^{3 3}, or
15 request, the report shall include² :
16 (1) ²[an assessment of whether the line is abandoned;
17 (2) a determination of whether the line contains the markings
18 required under subsection c. of section 2 of the P.L. , c. (C.)
19 (pending before the Legislature as this bill);
20 (3)] the date on which the entity received the ³notification,³
21 complaint ^{3 3}, or request;
22 (2) the manner in which the ³notification,³ complaint ^{3 3}, or request
23 was received;
24 (3) ³[the date on which the entity resolved the complaint or
25 request, if resolved;
26 (4)]³ the basis of the entity's determination of whether the line is
27 abandoned;
28 ³[(5)²] (4)³ a description of all actions undertaken by the entity
29 with respect to the line, including any actions to remove ², overlash,²
30 or mark the line ³, and the dates on which such actions were taken³;
31 and
32 ²[(4)] ³[(6)²] (5)³ any other information that may be required by
33 the board.¹
34 ³f. Beginning 12 months after the effective date P.L. ,
35 c. (C.) (pending before the Legislature as this bill), and every 12
36 months thereafter, each entity shall provide written notice to each
37 customer of the entity, which notice shall inform the customer of the
38 provisions of P.L. , c. (C.) (pending before the Legislature as
39 this bill) and explain the processes through which the customer may
40 submit a request for removal of a suspected abandoned line. The
41 written notice shall be provided in a form and manner prescribed by
42 the board, except that the notice shall be provided to each customer
43 using the same method as the entity provides a bill to the customer,
44 and the notice shall be made available in both English and Spanish.³

¹4. The board and the department shall promulgate rules and regulations, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) for entities under their respective jurisdictions, as applicable. The board and department may be assisted, as appropriate, by other participating agencies, departments, boards, and authorities, including the Office of Information Technology, in the promulgation of necessary rules and regulations.¹

¹4. a. If an entity fails to comply with any requirements of section 2 ²or 3² of P.L. , c. (C.) (pending before the Legislature as this bill), the entity may be subject to a fine, as set forth in this section, which fine shall be enforced by the board.

b. Before an entity may be subject to a fine under this section, the board shall provide the entity with written notice of the alleged violation. Within 30 calendar days of receiving the notice, the entity shall be permitted to cure the alleged violation or demonstrate that the entity has not violated the requirements of section 2 ²or 3² of P.L. , c. (C.) (pending before the Legislature as this bill).

c. If within 30 calendar days of receiving the notice, the entity fails to cure the alleged violation or fails to demonstrate that the entity has not violated the requirements of section 2 ²or 3² of P.L. , c. (C.) (pending before the Legislature as this bill), the board may impose a fine of \$100 for each day in which the violation exists, beginning on the 31st calendar day after the submission of the written notice. In determining whether to impose a fine ²and, if appropriate, in determining the amount of the fine² , the board may consider the following factors:

(1) the nature, circumstances, and magnitude of the violations;

(2) the entity’s history of prior violations during the prior three-year period;

(3) any good faith efforts by the entity to cure the violation within a reasonable time period following notice; and

(4) any other considerations that the board may deem appropriate.¹

¹5. a. Notwithstanding any law, rule, regulation, or order to the contrary, ³[and] but³ in accordance with federal law, if applicable, an entity owning one or more copper telephone lines in this State shall remove each copper telephone line from all points of attachment, as provided in subsection b. of this section.

b. ³(1)³ Within 12 months after the effective date of ³[the]³ P.L. , c. (C.) (pending before the Legislature as this bill), an entity owning one or more copper telephone lines in the State shall submit a written plan to the board for the removal of each copper telephone line ³owned by the entity, as of the effective date of P.L. , c. (C.) (pending before the Legislature as this bill)³ . In

1 addition to any other requirements that the board may deem necessary,
2 the entity shall remove all ³such³ copper telephone lines owned by the
3 entity within 10 years following the submission of the report, except
4 that no less than 10 percent of the copper telephone lines shall be
5 removed during each year of this period.

6 ³(2) Beginning three years after the effective date of P.L. ,
7 c. (C.) (pending before the Legislature as this bill), and every
8 three years thereafter, an entity owning one or more copper telephone
9 lines in the State shall submit a written plan to the board for the
10 removal of any copper telephone line discovered by the entity after the
11 date on which the entity last submitted a written plan to the board
12 pursuant to this subsection. In addition to any other requirements that
13 the board may deem necessary, the entity shall remove all such copper
14 telephone lines owned by the entity within 10 years following the
15 submission of the report, except that no less than 10 percent of the
16 copper telephone lines shall be removed during each year of this
17 period.³

18 c. If an entity fails to comply with any requirements of this
19 section, the board may subject the entity to a fine, ³after notice,
20 hearing, and opportunity is provided to the entity for corrective or
21 remedial action,³ in such amounts as the board deems appropriate ³,
22 not to exceed a maximum aggregate fine of \$1,000 per day³.¹

23
24 ²6. ³During the course of the employee's employment, each
25 employee of an entity who is responsible for installing lines or
26 providing service calls or in-person technical assistance shall have an
27 affirmative duty to investigate any line owned by the entity to
28 determine whether the line is abandoned.³ If ³[an] the³ employee of
29 an entity discovers an abandoned line during the course of the
30 employee's employment, the employee shall have an affirmative
31 duty to ³either remove the abandoned line, if authorized by the
32 entity, or³ report the abandoned line to the entity ³for further
33 action³. Within ³[five business] 90 calendar³ days of receiving the
34 report, the entity shall transmit a copy of the report to the board.²

35
36 ²7. The board may promulgate rules and regulations, pursuant to
37 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
38 et seq.), to implement the provisions of P.L. , c. (C.)
39 (pending before the Legislature as this bill) for entities under its
40 jurisdiction, as applicable. The board may be assisted, as
41 appropriate, by other participating agencies, departments, boards,
42 and authorities, including the Office of Information Technology, in
43 the promulgation of such rules and regulations as the board deems
44 necessary.²

45
46 ¹[5.] ²[6.1] ⁸.² This act shall take effect immediately, but
47 shall remain inoperative for 90 days from the date of enactment.