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# SENATE BILL No. 308

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-32.4.

**Synopsis:** Telecommunications providers of last resort. Provides that upon notice to the utility regulatory commission (IURC) by an incumbent local exchange carrier that is the provider of last resort in one or more parts of the incumbent local exchange carrier's service area, the incumbent local exchange carrier is relieved of its obligation as the provider of last resort in any part of the incumbent local exchange carrier's service area in which there are at least two communications service providers (one of which may be the incumbent local exchange carrier) offering a voice service through any technology or medium. Provides that after June 30, 2013, upon notice to the IURC by an incumbent local exchange carrier that is the provider of last resort in one or more parts of the incumbent local exchange carrier's service area, the incumbent local exchange carrier is relieved of its provider of last resort obligation with respect to any part of its service area identified in its notice. Specifies that relief from a provider of last resort obligation does not affect an incumbent local exchange carrier's obligations under federal law. Specifies that for purposes of existing law that requires the IURC to determine, under certain circumstances, a successor provider for an area in which an exiting provider ceases operations, the IURC may not designate as the successor provider an incumbent local exchange carrier that has provided notice for relief from its provider of last resort obligations with respect to the area. Amends references to federal telecommunications law made obsolete by amendments to the federal law.

**Effective:** July 1, 2012.

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## Hershman

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January 5, 2012, read first time and referred to Committee on Utilities & Technology.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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# SENATE BILL No. 308



A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 8-1-32.4-5, AS ADDED BY P.L.27-2006,  
2 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2012]: Sec. 5. As used in this chapter, "facilities based local  
4 exchange carrier" means a local exchange carrier that provides local  
5 exchange service:

- 6 (1) exclusively over facilities owned or leased by the carrier; or
- 7 (2) predominantly over facilities owned or leased by the carrier,  
8 in combination with the resale of the telecommunications service  
9 (as defined in ~~47 U.S.C. 153(46)~~ **47 U.S.C. 153**) of another  
10 carrier.

11 SECTION 2. IC 8-1-32.4-7, AS ADDED BY P.L.27-2006,  
12 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2012]: Sec. 7. As used in this chapter, "local exchange carrier"  
14 has the meaning set forth in ~~47 U.S.C. 153(26)~~ **47 U.S.C. 153**.

15 SECTION 3. IC 8-1-32.4-8, AS ADDED BY P.L.27-2006,  
16 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2012]: Sec. 8. As used in this chapter, "local exchange



1 service" means the provision of telephone exchange service (as defined  
 2 in ~~47 U.S.C. 153(47)~~ **47 U.S.C. 153**) or exchange access (as defined  
 3 in ~~47 U.S.C. 153(16)~~; **47 U.S.C. 153**).

4 SECTION 4. IC 8-1-32.4-11, AS ADDED BY P.L.27-2006,  
 5 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2012]: Sec. 11. Except as provided in:

- 7 (1) IC 8-1-32.6-8;  
 8 (2) section 13 of this chapter; ~~or~~  
 9 (3) section 16 of this chapter; ~~or~~  
 10 **(4) section 17 of this chapter;**

11 an incumbent local exchange carrier has the obligations of the provider  
 12 of last resort. An incumbent local exchange carrier may meet the  
 13 carrier's obligations under this section using any available technology.

14 SECTION 5. IC 8-1-32.4-14, AS ADDED BY P.L.27-2006,  
 15 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2012]: Sec. 14. (a) Except as provided in IC 8-1-32.6-8 or  
 17 section 16 of this chapter, **and subject to subsection (e)**, if:

- 18 (1) the commission receives notice of an exiting provider's  
 19 decision to cease operation in all or part of the service area  
 20 covered by the provider's certificate of territorial authority; and  
 21 (2) there is not another provider that:  
 22 (A) holds a certificate of territorial authority in the area; and  
 23 (B) has facilities sufficient to provide basic  
 24 telecommunications service in the area;

25 the commission shall conduct a formal proceeding to determine the  
 26 successor provider for the area.

27 (b) After determining the successor provider for the affected area  
 28 under subsection (a), the commission shall, if applicable, allow the  
 29 following with respect to the successor provider:

- 30 (1) A reasonable time, determined by the commission and in  
 31 accordance with industry practices, in which to:  
 32 (A) modify, construct, or obtain the facilities; or  
 33 (B) deploy an approved alternative technology;  
 34 necessary to serve the customers of the exiting provider.  
 35 (2) A temporary exemption from any lawful obligation to  
 36 unbundle the successor provider's network elements. The  
 37 exemption under this subdivision shall continue for a period  
 38 determined by the commission to be reasonably necessary to  
 39 allow the successor provider to:  
 40 (A) modify, construct, or obtain the facilities; or  
 41 (B) deploy an alternative technology;  
 42 that will allow the successor provider to serve the customers of

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- 1 the exiting provider.
- 2 (3) A temporary exemption from any lawful obligation to provide
- 3 telecommunications service for resale within the affected area.
- 4 The exemption under this subdivision shall continue for a period
- 5 determined by the commission to be reasonably necessary to
- 6 allow the successor provider to:
- 7 (A) modify, construct, or obtain the facilities; or
- 8 (B) deploy an alternative technology;
- 9 that will allow the successor provider to serve the customers of
- 10 the exiting provider.
- 11 (c) The successor provider is entitled to obtain funding from a state
- 12 universal service fund to support the provider's assumption of
- 13 obligations as the provider of last resort for the area. This section does
- 14 not prohibit a provider from voluntarily:
- 15 (1) serving customers in the affected area; or
- 16 (2) purchasing the facilities of the exiting provider.
- 17 (d) A customer within the defined geographic area to be served by
- 18 the successor provider is considered to have applied for basic
- 19 telecommunications service from the successor provider on the
- 20 effective date of the commission's designation of the successor
- 21 provider. Each right, privilege, and obligation applicable to customers
- 22 of the successor provider applies to a customer transferred to the
- 23 successor provider under this section. A customer transferred to the
- 24 successor provider under this section is subject to the successor
- 25 provider's terms of service as specified in an applicable tariff or
- 26 contract. This section does not prohibit a customer from seeking, at any
- 27 time, service from a provider other than the successor provider.
- 28 (e) If:
- 29 (1) **an incumbent local exchange carrier has provided notice**
- 30 **to the commission under section 17 of this chapter for relief**
- 31 **from its obligation as the provider of last resort in any part of**
- 32 **the incumbent local exchange carrier's service area identified**
- 33 **in the notice; and**
- 34 **(2) the commission determines it is necessary to designate a**
- 35 **successor provider for the identified area because there is not**
- 36 **another provider that:**
- 37 **(A) holds a certificate of territorial authority in the area;**
- 38 **and**
- 39 **(B) has facilities sufficient to provide basic**
- 40 **telecommunications service in the area;**
- 41 **the commission, in determining a successor provider for the**
- 42 **area under this section, may not designate the incumbent local**

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1           **exchange carrier as the successor provider.**

2           SECTION 6. IC 8-1-32.4-17 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2012]: **Sec. 17. (a) Subject to subsection (b), upon notice to the**  
5 **commission by an incumbent local exchange carrier that is the**  
6 **provider of last resort in one (1) or more parts of the incumbent**  
7 **local exchange carrier's service area, the incumbent local exchange**  
8 **carrier is relieved of its obligation as the provider of last resort in**  
9 **any part of the incumbent local exchange carrier's service area in**  
10 **which there are at least two (2) communications service providers**  
11 **(as defined in IC 8-1-32.6-3), one (1) of which may be the**  
12 **incumbent local exchange carrier, offering a voice service through**  
13 **any technology or medium, including any of the following:**

14           **(1) Wire communication (as defined in 47 U.S.C. 153).**

15           **(2) Internet Protocol enabled services.**

16           **(3) Commercial mobile service (as defined in 47 U.S.C. 332).**

17           **(b) Subject to section 14(e) of this chapter, after June 30, 2013,**  
18 **upon notice to the commission by an incumbent local exchange**  
19 **carrier that is the provider of last resort in one (1) or more parts**  
20 **of the incumbent local exchange carrier's service area, the**  
21 **incumbent local exchange carrier is relieved of its provider of last**  
22 **resort obligation with respect to any part of its service area**  
23 **identified in the incumbent local exchange carrier's notice to the**  
24 **commission under this subsection.**

25           **(c) Relief from a provider of last resort obligation under this**  
26 **chapter does not affect an incumbent local exchange carrier's**  
27 **obligations under federal law.**

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