

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 382 (Delegate Fair, *et al.*)
Economic Matters

Commercial Law - Broadband Access - Low-Income Consumer Programs
(Maryland Broadband Opportunity and Fairness Act)

This bill requires, by December 1, 2026, each broadband provider serving 10,000 or more customers to establish a low-income consumer program. The bill establishes eligibility criteria, program requirements, minimum broadband Internet speeds, and filing requirements. Violation of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions. The bill also expands the duties of the Office of Statewide Broadband (OSB) within the Department of Housing and Community Development (DHCD) to account for the bill's requirements.

Fiscal Summary

State Effect: The Office of the Attorney General (Consumer Protection Division) and DHCD can handle the bill's requirements with existing resources. The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations.

Local Effect: The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

“Broadband service” means a mass-market retail service that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of communications services provided by specified telecommunications services. “Broadband service” does not include dial-up service.

A “low-income consumer” means an individual whose household or at least one member of the household qualifies for benefits or tax credits under specified federal or State anti-poverty programs.

Low-cost Broadband Service Option – Requirement

A low-income consumer program must offer at least one low-cost broadband service option to eligible low-income consumers including (1) a minimum broadband speed that meets specified requirements; (2) at least 1.2 terabytes of data storage; and (3) a latency that is sufficiently low to allow reasonably foreseeable, real-time, interactive applications. Network outages of broadband services offered may not exceed, on average, 48 hours within any year. OSB may modify the download and upload speeds for areas of the State in which such speeds are not reasonably practicable.

If a provider can no longer provide a low-cost broadband service option to a customer, the provider must sell the network capacity at a reasonable, wholesale rate on a nondiscriminatory basis to other providers.

Authorized Program Price Increases

A provider may, once every three years, increase the price of broadband service under the provider’s program by the lesser of the most recent change in the Consumer Price Index for all urban consumers, or not more than 2% per year. A provider must provide at least 30 days’ notice of a price increase to consumers enrolled in the provider’s program and OSB before increasing the price.

Enrollment in a Program

A provider may not require enrollment in an automatic payment plan as a criterion for eligibility in a program. A provider must allow customers enrolled in the provider’s program to purchase stand-alone broadband service or a broadband service bundled with

cable television or phone service. Any contract or agreement for broadband service offered as part of a program must include the same terms and conditions, other than price and broadband speeds, as regularly priced plans for similar services offered by the provider.

Promotions and Advertisement

A provider must make available to the public in a prominent manner on its website anywhere that a list of available plans is posted the availability of broadband service for low-income consumers and enrollment procedures. A provider must make all commercially reasonable efforts to promote and advertise the availability of broadband service for low-income consumers and enrollment procedures on the provider's website and in any written or commercial promotional or advertising materials. Any promotion or advertising must include the prominent display of the provider's program.

Fiber-optic Requirements

For any program that provides a low-cost broadband service to a customer that involves laying fiber-optic cables or conduit underground or along a roadway, the provider must include interspersed conduit access points at regular and short intervals.

Exemption from Low-income Consumer Program

OSB may exempt a provider from the bill's requirements if the provider provides broadband service to fewer than 20,000 households, and OSB determines that compliance would result in an unreasonable or unsustainable financial impact on the provider.

Filing Requirements

By November 15, 2027, and annually thereafter, a provider in the State must file with OSB a compliance report including (1) the availability of a low-income consumer program; (2) the number of consumers enrolled in the program; (3) the procedures used to verify the eligibility of customers applying for the program; (4) the advertising and marketing efforts undertaken to advertise and promote the availability of the program, including samples of advertising and marketing materials; (5) all broadband service plans offered by the provider, including pricing and broadband speeds; and (6) any other information OSB considers necessary or appropriate.

Office of Statewide Broadband Duties

By December 1, 2029, and annually thereafter, OSB must determine whether the minimum broadband download and upload speeds and data storage requirements should be increased to (1) the Federal Communication Commission's benchmark for high-speed fixed broadband download and upload speeds or (2) commonly available mobile broadband

download and upload speeds, and data storage limits in the State. OSB must also (1) evaluate the eligibility requirements for a low-income consumer, and (2) include in its annual report any recommendations for changes to the eligibility requirements.

Broadband Affordability Advisory Board

The purpose of the Broadband Affordability Advisory Board is to establish a definition for a low-cost broadband service option as required under federal law. The board must submit the definition of low-cost broadband service option to OSB for submittal to the National Telecommunications and Information Administration (NTIA) for approval. The definition of low-cost broadband service option must meet all requirements established under the bill, meet any requirements set by federal law, and meet any requirements set by NTIA.

Current Law:

Office of Statewide Broadband

Chapter 74 of 2021 established OSB within DHCD as the successor to the Office of Rural Broadband and charged OSB with expanded responsibilities relating to planning, data collection, outreach, and intergovernmental coordination. Notably, the Act required OSB to prepare a statewide plan ensuring universal, affordable, reliable broadband Internet connectivity exceeding specified federal standards by December 31, 2026. OSB must annually report to the Governor and the General Assembly on the progress of the State's efforts to develop and implement the statewide plan, among other things.

Chapter 74 also established (1) the Digital Inclusion Fund, to provide a competitive grant program to support capacity building for local governments and nonprofit organizations seeking to further access to high-speed Internet and implement programs to expand digital literacy and (2) the Digital Connectivity Fund, to assist in the establishment and expansion of affordable broadband communication services in disconnected areas and communities in the State. In addition, the Act transferred the existing Rural Broadband Assistance Fund from the Department of Commerce to OSB. The purpose of the Rural Broadband Assistance Fund is to assist in the establishment of broadband communication services in rural and underserved areas of the State.

Federal Broadband, Equity, Access, and Deployment Program

The federal Infrastructure Investment and Jobs Act of 2021 includes more than \$60 billion in funding nationally for broadband programs. The largest program is the Broadband Equity, Access, and Deployment (BEAD) Program, which provides \$42.5 billion nationally for grants to states, allocated by a formula based on the proportion of unserved locations in each state as well as unserved locations in high-cost areas. In June 2023, the National Telecommunications and Information Administration announced

that Maryland's BEAD allocation will total \$267.7 million in addition to \$5.0 million that DHCD already received as a planning grant. More information can be found on the [DHCD website](#).

Consumer Protection

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease-and-desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 571 (Senator Ellis) - Finance.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Housing and Community Development; Department of Legislative Services

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