

Senate Bill 193

By: Senators Gooch of the 51st, Anavitarte of the 31st, Kennedy of the 18th, Cowser of the 46th, Summers of the 13th and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 40 of Title 50 of the Official Code of Georgia Annotated, relating to the
2 promotion and deployment of broadband services, so as to provide for the Department of
3 Community Affairs to determine locations that are eligible for state or federal funding
4 programs administered by the state for improved broadband services; to provide for certain
5 persons and entities to have access to provider-specific information; to provide protections
6 for such provider-specific information; to require the Department of Community Affairs to
7 determine certain data for locations eligible for state or federal funding programs
8 administered by the state for improved broadband services and to provide for the publication
9 of such determinations; to provide for rules, regulations, and guidance for determinations;
10 to conform a cross-reference; to provide for related matters; to provide for an effective date;
11 to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 40 of Title 50 of the Official Code of Georgia Annotated, relating to the promotion
15 and deployment of broadband services, is amended by revising Code Section 50-40-3,

16 relating to confidential and proprietary nature of information provided by broadband services
17 providers, as follows:

18 "50-40-3.

19 (a) All information provided by a broadband services provider pursuant to this chapter
20 shall be presumed to be confidential, proprietary, a trade secret as such term is defined in
21 Code Section 10-1-761, and subject to exemption from disclosure under state and federal
22 law and shall not be subject to disclosure under Article 4 of Chapter 18 of this title, except
23 in the form of a map where information that could be used to determine provider-specific
24 information about the network of the broadband services provider is not disclosed.

25 (b) Except as otherwise provided in this chapter, such provider-specific information shall
26 be used solely for the purposes stated under this chapter and shall not, without express
27 permission of the submitting broadband services provider, be released to any person other
28 than to:

29 (1) The ~~the~~ submitting broadband services provider;:

30 (2) The ~~the~~ Department of Community Affairs or the Georgia Technology Authority;:

31 (3) Agents ~~agents~~ designated to assist in developing the map provided for in Article 2 of
32 this chapter;:

33 (4) Agents designated to assist in developing a state-wide broadband services
34 deployment plan or supporting the coordination of funding programs associated with
35 broadband services pursuant to this chapter;

36 (5) Employees ~~employees~~ of the Department of Community Affairs or the Georgia
37 Technology Authority, ~~and; or~~

38 (6) Attorneys ~~attorneys~~ employed by or under contract with the Department of
39 Community Affairs or the Georgia Technology Authority ~~without express permission of~~
40 ~~the submitting broadband services provider. Such information shall be used solely for~~
41 ~~the purposes stated under this chapter.~~

42 (c) All persons and entities to which any provider-specific information is released pursuant
43 to subsection (b) of this Code section shall protect such information from public disclosure.
44 Nothing in this Code section shall prohibit such persons and entities to publish the maps
45 provided for in this chapter, provided that no data is publicly distributed that could be used
46 to determine provider-specific information about the network of the broadband services
47 provider."

48 **SECTION 2.**

49 Said chapter is further amended by revising Code Section 50-40-20, relating to determination
50 of served and unserved areas, as follows:

51 "50-40-20.

52 (a) The Department of Community Affairs shall determine those areas in ~~the~~ this state that
53 are served areas and unserved areas and shall publish such findings.

54 (b) In addition to the determinations required under subsection (a) of this Code section, the
55 Department of Community Affairs shall separately determine which locations are eligible
56 for state or federal funding programs administered by the state for improved broadband
57 services and shall publish such findings. Location eligibility for federal funding programs
58 administered by the state for improved broadband services shall be determined based on
59 the rules, regulations, and guidance set forth by each funding program."

60 **SECTION 3.**

61 Said chapter is further amended by revising Code Section 50-40-21, relating to development,
62 publication, and utilization of map identifying underserved areas, as follows:

63 "50-40-21.

64 ~~On or before January 1, 2019, the~~ The Department of Community Affairs shall publish
65 on its website a map showing the unserved areas in ~~the~~ this state and locations eligible for

66 state or federal funding programs administered by the state for improved broadband service.
67 (b) For the purposes of facilitating grants, the Department of Community Affairs may
68 distribute data for locations eligible for state or federal funding programs administered by
69 the state for improved broadband services. The Department of Community Affairs shall
70 not publicly distribute data for any location that has broadband services available at a rate
71 of at least 25 megabits per second in the downstream direction and at least 3 megabits per
72 second in the upstream direction to end users except when the rules, regulations, and
73 guidance for funding programs to be administered by the state or federal government
74 requires these locations to be eligible for funding under each program. The Department
75 of Community Affairs shall not publicly distribute any data pursuant to this subsection that
76 could be used to determine provider-specific information about the network of a broadband
77 services provider.

78 ~~(b)~~(c) The Department of Community Affairs shall consult with the Federal
79 Communications Commission in determining if a map showing the unserved areas, as
80 determined by the Department of Community Affairs, exists. If on or before July 1, 2018,
81 the Department of Community Affairs determines that such a map does not exist, then such
82 a map shall be created by the Department of Community Affairs or an agent designated by
83 the Department of Community Affairs. Such agent may include the Georgia Technology
84 Authority or other entities and individuals that are determined by the Department of
85 Community Affairs to possess the necessary prerequisites to assist the department in
86 creating such a map. Any such map created by the Department of Community Affairs shall
87 take into consideration any information received pursuant to subsections ~~(c)~~ (d) and ~~(d)~~ (e)
88 of this Code section and Code Section 50-40-22. If the Department of Community Affairs
89 determines that such a map does exist that was not created by the Department of
90 Community Affairs or an agent designated by the Department of Community Affairs, then
91 its website may link to such existing map in lieu of republishing such map.

92 ~~(e)~~(d) All local governments shall cooperate with the Department of Community Affairs
93 and any agent designated by the Department of Community Affairs by providing requested
94 information as to addresses and locations of broadband services and other emerging
95 communications technologies within their jurisdictions.

96 ~~(d)~~(e) The Department of Community Affairs and any agent designated by the Department
97 of Community Affairs may request information from all broadband services providers in
98 ~~the~~ this state in developing a map or making the determination as to the percentage of
99 locations within a census block to which broadband services are not available."

100

SECTION 4.

101 Said chapter is further amended in Code Section 50-40-81, relating to development of
102 Georgia Broadband Deployment Initiative, funding awards, considerations, priorities, and
103 compliance with federal provisions, by revising subsection (f) as follows:

104 "(f) The department shall give competitive priority to any unserved area certified as a
105 broadband ready community as provided in Article 3 of this chapter. Partnerships that
106 include qualified broadband providers that cooperate in providing information requested
107 pursuant to subsection ~~(d)~~ (e) of Code Section 50-40-21, as applicable, shall also factor
108 favorably into the competitive funding awards process."

109

SECTION 5.

110 This Act shall become effective upon its approval by the Governor or upon its becoming law
111 without such approval.

112

SECTION 6.

113 All laws and parts of laws in conflict with this Act are repealed.