

## CHAPTER 2023-199

### Committee Substitute for House Bill No. 1221

An act relating to broadband Internet service providers; creating s. 364.391, F.S.; defining terms; specifying that the poles of rural electric cooperatives that are engaged in the provision of broadband are subject to regulation by the Public Service Commission; authorizing the commission to access the books and records of such cooperatives for specified purposes; providing that such information that contains proprietary confidential business information retains its confidential or exempt status when held by the commission; providing construction; amending s. 425.04, F.S.; authorizing rural electric cooperatives to engage in the provision of broadband; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 364.391, Florida Statutes, is created to read:

364.391 Rural electric cooperatives engaged in the provision of broadband.—

(1) As used in this section, the term:

(a) “Affiliate” means an entity related through a parent cooperative’s controlling interest. The term includes a subsidiary or any other entity under common control with the cooperative.

(b) “Cooperative” means a rural electric cooperative established pursuant to chapter 425.

(c) “Engages in the provision of broadband” means an entity that:

1. Provides broadband service directly, through an affiliate, or pursuant to an agreement with a third party; or

2. Accepts broadband grant funding pursuant to s. 288.9962 or from any other federal or state program offering grants to expand broadband Internet service to unserved areas of this state.

(2) If a cooperative engages in the provision of broadband:

(a) All poles owned by the cooperative are subject to regulation under s. 366.04(8) on the same basis as if such cooperative were a public utility under that subsection; and

(b) The commission may access the books and records of such cooperative to the limited extent necessary to perform its functions and to exercise its authority under ss. 366.04(8) and 366.97(4). Upon request of the cooperative, any records the commission receives under this paragraph which are

proprietary confidential business information under s. 364.183 or s. 366.093 shall retain their status as confidential or exempt from disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) This section may not be construed to impair the contract rights of a party to a valid pole attachment agreement in existence before July 1, 2023.

Section 2. Section 425.04, Florida Statutes, is amended to read:

425.04 Powers.—A cooperative shall have all of the following powers power:

- (1) To sue and be sued, in its corporate name.;
- (2) To have perpetual existence.;
- (3) To adopt a corporate seal and alter the same at pleasure.;
- (4) To generate, manufacture, purchase, acquire, accumulate and transmit electric energy, and to distribute, sell, supply, and dispose of electric energy in rural areas to its members, to governmental agencies and political subdivisions, and to other persons not in excess of 10 percent of the number of its members; to process, treat, sell, and dispose of water and water rights; to purchase, construct, own and operate water systems; to own and operate sanitary sewer systems; and to supply water and sanitary sewer services. However, a ~~no~~ cooperative may not shall distribute or sell any electricity, or electric energy to any person residing within any town, city, or area in which the person is receiving adequate central station service or who at the time of commencing such service, or offer to serve, by a cooperative, is receiving adequate central station service from any utility agency, privately or municipally owned individual partnership or corporation.;
- (5) To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such person in, wiring their premises and installing therein electric and plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection therewith, to purchase, acquire, lease, sell, distribute, install and repair such electric and plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security therefor.;
- (6) To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating electric refrigeration plants.;
- (7) To become a member in one or more other cooperatives or corporations or to own stock therein.;

(8) To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, electric transmission and distribution lines or systems, electric generating plants, electric refrigeration plants, lands, buildings, structures, dams, plants and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized.;

(9) To purchase or otherwise acquire; to own, hold, use and exercise; and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easement.;

(10) To borrow money and otherwise contract indebtedness; to issue notes, bonds, and other evidences of indebtedness therefor; and to secure the payment thereof by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then owned or after-acquired real or personal property, assets, franchises, revenues or income.;

(11) To construct, maintain, and operate electric transmission and distribution lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands, subject, however, to the requirements in respect of the use of such thoroughfares and lands that are imposed by the respective authorities having jurisdiction thereof upon corporations constructing or operating electric transmission and distribution lines or systems.;

(12) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems.;

(13) To engage in the provision of broadband pursuant to s. 364.391.

~~(14)~~ To conduct its business and exercise any or all of its powers within or without this state.;

~~(15)~~(14) To adopt, amend, and repeal bylaws.;

~~(16)~~(15) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized.

~~(17)~~ To promote economic development by providing, ~~an electric cooperative may provide~~ any energy or nonenergy services to its membership.

Section 3. This act shall take effect July 1, 2023.

Approved by the Governor June 5, 2023.

Filed in Office Secretary of State June 5, 2023.