

1 A bill to be entitled
2 An act relating to taxation of communications
3 services; amending s. 202.12, F.S.; providing
4 for a schedule of taxation of the sales of
5 certain satellite services and cable services;
6 amending s. 202.125, F.S.; including cable
7 service within an exemption from the
8 communications services tax imposed by s.
9 202.12; amending s. 202.18, F.S.; revising the
10 distribution of the tax on the sale of cable
11 services, to conform; revising the distribution
12 of the tax on the sale of direct-to-home
13 satellite services, to conform; conforming
14 references; amending s. 202.19, F.S.;
15 conforming references; amending s. 212.20,
16 F.S.; conforming references; providing
17 effective dates.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Paragraph (c) of subsection (1) of section
22 202.12, Florida Statutes, is amended to read:

23 202.12 Sales of communications services.--The
24 Legislature finds that every person who engages in the
25 business of selling communications services at retail in this
26 state is exercising a taxable privilege. It is the intent of
27 the Legislature that the tax imposed by chapter 203 be
28 administered as provided in this chapter.

29 (1) For the exercise of such privilege, a tax is
30 levied on each taxable transaction, and the tax is due and
31 payable as follows:

1 (c)1. At the rate of 10.8 percent on the retail sales
2 price of any nonresidential direct-to-home satellite service
3 received in this state. The proceeds of the tax imposed under
4 this paragraph shall be accounted for and distributed in
5 accordance with s. 202.18(2). The gross receipts tax imposed
6 by chapter 203 shall be collected on the same taxable
7 transactions and remitted with the tax imposed by this
8 paragraph.

9 2. At the following rates on the retail sales price of
10 any direct-to-home satellite service sold to a residential
11 household and received in this state:

12 a. For fiscal year 2002-2003, 10.03 percent.

13 b. For fiscal year 2003-2004, 9.26 percent.

14 c. For fiscal year 2004-2005, 8.48 percent.

15 d. For fiscal year 2005-2006, 7.70 percent.

16 e. For fiscal year 2006-2007, 6.93 percent.

17 f. For fiscal year 2007-2008, 6.16 percent.

18 g. For fiscal year 2008-2009, 5.38 percent.

19 h. For fiscal year 2009-2010, 4.60 percent.

20 i. For fiscal year 2010-2011 and thereafter, 4
21 percent.

22 3. At the following rates on the retail sales price of
23 any cable service sold to a residential household and received
24 in this state:

25 a. For fiscal year 2002-2003, 6.03 percent.

26 b. For fiscal year 2003-2004, 5.26 percent.

27 c. For fiscal year 2004-2005, 4.48 percent.

28 d. For fiscal year 2005-2006, 3.70 percent.

29 e. For fiscal year 2006-2007, 2.93 percent.

30 f. For fiscal year 2007-2008, 2.16 percent.

31 g. For fiscal year 2008-2009, 1.38 percent.

1 h. For fiscal year 2009-2010, 0.60 percent.

2 i. For fiscal year 2010-2011 and thereafter, the
3 retail sales price of any cable service sold to a residential
4 household and received in this state shall be exempt from the
5 tax imposed by this section but shall remain subject to the
6 gross receipts tax imposed by chapter 203.

7 Section 2. Effective July 1, 2010, subsection (1) of
8 section 202.125, Florida Statutes, is amended to read:

9 202.125 Sales of communications services; specified
10 exemptions.--

11 (1) The separately stated sales price of
12 communications services sold to residential households is
13 exempt from the tax imposed by s. 202.12. This exemption shall
14 not apply to any residence that constitutes all or part of a
15 public lodging establishment as defined in chapter 509, any
16 mobile communications service, ~~any cable service~~, or any
17 direct-to-home satellite service.

18 Section 3. Subsections (1) and (2) of section 202.18,
19 Florida Statutes, are amended to read:

20 202.18 Allocation and disposition of tax
21 proceeds.--The proceeds of the communications services taxes
22 remitted under this chapter shall be treated as follows:

23 (1) The proceeds of the taxes remitted under s.
24 202.12(1)(a), (b), and (c)3.~~s. 202.12(1)(a) and (b)~~ shall be
25 divided as follows:

26 (a) The portion of such proceeds which constitutes
27 gross receipts taxes, imposed at the rate prescribed in
28 chapter 203, shall be deposited as provided by law and in
29 accordance with s. 9, Art. XII of the State Constitution.

30 (b) The remaining portion shall be distributed
31 according to s. 212.20(6).

1 (2) The proceeds of the taxes remitted under s.
2 202.12(1)(c)1. and 2.s. 202.12(1)(c) shall be divided as
3 follows:

4 (a) The portion of such proceeds which constitutes
5 gross receipts taxes, imposed at the rate prescribed in
6 chapter 203, shall be deposited as provided by law and in
7 accordance with s. 9, Art. XII of the State Constitution.

8 (b) With respect to tax levied at the rate of 10.8
9 percent:

10 1. Sixty-three percent of the proceeds ~~remainder~~ shall
11 be allocated to the state and distributed pursuant to s.
12 212.20(6), except that the proceeds allocated pursuant to s.
13 212.20(6)(d)3. shall be prorated to the participating counties
14 in the same proportion as that month's collection of the taxes
15 and fees imposed pursuant to chapter 212 ~~and paragraph (1)(b).~~

16 2.a.(c)1. During each calendar year, the remaining
17 portion of such proceeds shall be transferred to the Local
18 Government Half-cent Sales Tax Clearing Trust Fund and shall
19 be allocated in the same proportion as the allocation of total
20 receipts of the half-cent sales tax under s. 218.61 and the
21 emergency distribution under s. 218.65 in the prior state
22 fiscal year. ~~However, during calendar year 2001, state fiscal~~
23 ~~year 2000-2001 proportions shall be used.~~

24 b.2. The proportion of the proceeds allocated based on
25 the emergency distribution under s. 218.65 shall be
26 distributed pursuant to s. 218.65.

27 c.3. In each calendar year, the proportion of the
28 proceeds allocated based on the half-cent sales tax under s.
29 218.61 shall be allocated to each county in the same
30 proportion as the county's percentage of total sales tax
31 allocation for the prior state fiscal year and distributed

1 pursuant to s. 218.62, except that for calendar year 2001,
2 state fiscal year 2000-2001 proportions shall be used.

3 ~~d.4.~~ The department shall distribute the appropriate
4 amount to each municipality and county each month at the same
5 time that local communications services taxes are distributed
6 pursuant to subsection (3).

7 (c)1. With respect to tax levied pursuant to s.
8 202.12(1)(c)2., the following percentage of the tax shall be
9 allocated to the state and distributed pursuant to s.
10 212.20(6), except that the proceeds allocated pursuant to s.
11 212.20(6)(d)3. shall be prorated to the participating counties
12 in the same proportion as that month's collection of the taxes
13 and fees imposed pursuant to chapter 212.

14 a. For fiscal year 2002-2003, 6.03 percent of the
15 percentage of tax levied under s.202.12(1)(c)2.a.

16 b. For fiscal year 2003-2004, 5.26 percent of the
17 percentage of tax levied under s.202.12(1)(c)2.a.

18 c. For fiscal year 2004-2005, 4.48 percent of the
19 percentage of tax levied under s.202.12(1)(c)2.a.

20 d. For fiscal year 2005-2006, 3.70 percent of the
21 percentage of tax levied under s.202.12(1)(c)2.a.

22 e. For fiscal year 2006-2007, 2.93 percent of the
23 percentage of tax levied under s.202.12(1)(c)2.a.

24 f. For fiscal year 2007-2008, 2.16 percent of the
25 percentage of tax levied under s.202.12(1)(c)2.a.

26 g. For fiscal year 2008-2009, 1.38 percent of the
27 percentage of tax levied under s.202.12(1)(c)2.a.

28 h. For fiscal year 2009-2010, 0.60 percent of the
29 percentage of tax levied under s.202.12(1)(c)2.a.

30 i. For fiscal year 2010-2011 and thereafter, no
31 percentage of the tax shall be allocated to the state.

1 2. During each calendar year, the remaining proceeds
2 shall be transferred to the Local Government Half-cent Sales
3 Tax Clearing Trust Fund and shall be allocated in the same
4 proportion as the allocation of total receipts of the
5 half-cent sales tax under s. 218.61 and the emergency
6 distribution under s. 218.65 in the prior state fiscal year.

7 3. The proportion of the proceeds allocated based on
8 the emergency distribution under s. 218.65 shall be
9 distributed pursuant to s. 218.65.

10 4. In each calendar year, the proportion of the
11 proceeds allocated based on the half-cent sales tax under s.
12 218.61 shall be allocated to each county in the same
13 proportion as the county's percentage of total sales tax
14 allocation for the prior state fiscal year and distributed
15 pursuant to s. 218.62.

16 5. The department shall distribute the appropriate
17 amount to each municipality and county each month at the same
18 time that local communications services taxes are distributed
19 pursuant to subsection (3).

20 Section 4. Subsections (4) and (5) of section 202.19,
21 Florida Statutes, are amended to read:

22 202.19 Authorization to impose local communications
23 services tax.--

24 (4)(a)1. Except as otherwise provided in this section,
25 the tax imposed by any municipality shall be on all
26 communications services subject to tax under s. 202.12 or
27 gross receipts tax under chapter 203 which:

28 a. Originate or terminate in this state; and

29 b. Are charged to a service address in the
30 municipality.

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1 2. With respect to private communications services,
 2 the tax shall be on the sales price of such services provided
 3 within the municipality. In determining the sales price of
 4 private communications services subject to tax, the
 5 communications service provider shall be entitled to use any
 6 method that reasonably allocates the total charges among the
 7 state and local taxing jurisdictions in which channel
 8 termination points are located. An allocation method is deemed
 9 to be reasonable for purposes of this subparagraph if the
 10 communications service provider regularly used such method for
 11 Florida tax purposes prior to December 31, 2000. If a
 12 communications service provider uses a reasonable allocation
 13 method, such provider shall be held harmless from any
 14 liability for additional tax, interest, or penalty based on a
 15 different allocation method.

16 (b)1. Except as otherwise provided in this section,
 17 the tax imposed by any county under subsection (1) shall be on
 18 all communications services subject to tax under s. 202.12 or
 19 gross receipts tax under chapter 203 which:

- 20 a. Originate or terminate in this state; and
- 21 b. Are charged to a service address in the
- 22 unincorporated area of the county.

23 2. With respect to private communications services,
 24 the tax shall be on the sales price of such services provided
 25 within the unincorporated area of the county. In determining
 26 the amount of charges for private communications services
 27 subject to tax, the communications service provider shall be
 28 entitled to use any method that reasonably allocates the total
 29 charges among the state and local taxing jurisdictions in
 30 which channel termination points are located. An allocation
 31 method is deemed to be reasonable for purposes of this

1 subparagraph if the communications service provider regularly
2 used such method for Florida tax purposes prior to December
3 31, 2000. If a communications service provider uses a
4 reasonable allocation method, such provider shall be held
5 harmless from any liability for additional tax, interest, or
6 penalty based on a different allocation method.

7 (5) In addition to the communications services taxes
8 authorized by subsection (1), a discretionary sales surtax
9 that a county or school board has levied under s. 212.055 is
10 imposed as a local communications services tax under this
11 section, and the rate shall be determined in accordance with
12 s. 202.20(3).

13 (a) Except as otherwise provided in this subsection,
14 each such tax rate shall be applied, in addition to the other
15 tax rates applied under this chapter, to communications
16 services subject to tax under s. 202.12 or gross receipts tax
17 under chapter 203 which:

- 18 1. Originate or terminate in this state; and
- 19 2. Are charged to a service address in the county.

20 (b) With respect to private communications services,
21 the tax shall be on the sales price of such services provided
22 within the county. In determining the sales price of private
23 communications services subject to tax, the communications
24 service provider shall be entitled to use any method that
25 reasonably allocates the total charges among the state and
26 local taxing jurisdictions in which channel termination points
27 are located. An allocation method is deemed to be reasonable
28 for purposes of this paragraph if the communications service
29 provider regularly used such method for Florida tax purposes
30 prior to December 31, 2000. If a communications service
31 provider uses a reasonable allocation method, such provider

1 shall be held harmless from any liability for additional tax,
2 interest, or penalty based on a different allocation method.

3 Section 5. Effective January 1, 2004, subsections (4)
4 and (5) of section 202.19, Florida Statutes, as amended by
5 section 10 of chapter 2001-140, Laws of Florida, are amended
6 to read:

7 202.19 Authorization to impose local communications
8 services tax.--

9 (4)(a)1. Except as otherwise provided in this section,
10 the tax imposed by any municipality shall be on all
11 communications services subject to tax under s. 202.12 or
12 gross receipts tax under chapter 203 which:

- 13 a. Originate or terminate in this state; and
14 b. Are charged to a service address in the
15 municipality.

16 2. With respect to private communications services,
17 the tax shall be on the sales price of such services provided
18 within the municipality, which shall be determined in
19 accordance with the following provisions:

20 a. Any charge with respect to a channel termination
21 point located within such municipality;

22 b. Any charge for the use of a channel between two
23 channel termination points located in such municipality; and

24 c. Where channel termination points are located both
25 within and outside of the municipality:

26 (I) If any segment between two such channel
27 termination points is separately billed, 50 percent of such
28 charge; and

29 (II) If any segment of the circuit is not separately
30 billed, an amount equal to the total charge for such circuit
31 multiplied by a fraction, the numerator of which is the number

1 of channel termination points within such municipality and the
2 denominator of which is the total number of channel
3 termination points of the circuit.

4 (b)1. Except as otherwise provided in this section,
5 the tax imposed by any county under subsection (1) shall be on
6 all communications services subject to tax under s. 202.12 or
7 gross receipts tax under chapter 203 which:

8 a. Originate or terminate in this state; and

9 b. Are charged to a service address in the
10 unincorporated area of the county.

11 2. With respect to private communications services,
12 the tax shall be on the sales price of such services provided
13 within the unincorporated area of the county, which shall be
14 determined in accordance with the following provisions:

15 a. Any charge with respect to a channel termination
16 point located within the unincorporated area of such county;

17 b. Any charge for the use of a channel between two
18 channel termination points located in the unincorporated area
19 of such county; and

20 c. Where channel termination points are located both
21 within and outside of the unincorporated area of such county:

22 (I) If any segment between two such channel
23 termination points is separately billed, 50 percent of such
24 charge; and

25 (II) If any segment of the circuit is not separately
26 billed, an amount equal to the total charge for such circuit
27 multiplied by a fraction, the numerator of which is the number
28 of channel termination points within the unincorporated area
29 of such county and the denominator of which is the total
30 number of channel termination points of the circuit.

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1 (5) In addition to the communications services taxes
2 authorized by subsection (1), a discretionary sales surtax
3 that a county or school board has levied under s. 212.055 is
4 imposed as a local communications services tax under this
5 section, and the rate shall be determined in accordance with
6 s. 202.20(3).

7 (a) Except as otherwise provided in this subsection,
8 each such tax rate shall be applied, in addition to the other
9 tax rates applied under this chapter, to communications
10 services subject to tax under s. 202.12 or gross receipts tax
11 under chapter 203 which:

- 12 1. Originate or terminate in this state; and
- 13 2. Are charged to a service address in the county.

14 (b) With respect to private communications services,
15 the tax shall be on the sales price of such services provided
16 within the county, which shall be determined in accordance
17 with the following provisions:

18 1. Any charge with respect to a channel termination
19 point located within such county;

20 2. Any charge for the use of a channel between two
21 channel termination points located in such county; and

22 3. Where channel termination points are located both
23 within and outside of such county:

24 a. If any segment between two such channel termination
25 points is separately billed, 50 percent of such charge; and

26 b. If any segment of the circuit is not separately
27 billed, an amount equal to the total charge for such circuit
28 multiplied by a fraction, the numerator of which is the number
29 of channel termination points within such county and the
30 denominator of which is the total number of channel
31 termination points of the circuit.

1 Section 6. Subsection (6) of section 212.20, Florida
2 Statutes, is amended to read:

3 212.20 Funds collected, disposition; additional powers
4 of department; operational expense; refund of taxes
5 adjudicated unconstitutionally collected.--

6 (6) Distribution of all proceeds under this chapter
7 and s. 202.18(1)(b), (2)(b)1., and (2)(c)1.~~s. 202.18(1)(b)~~
8 ~~and (2)(b)~~ shall be as follows:

9 (a) Proceeds from the convention development taxes
10 authorized under s. 212.0305 shall be reallocated to the
11 Convention Development Tax Clearing Trust Fund.

12 (b) Proceeds from discretionary sales surtaxes imposed
13 pursuant to ss. 212.054 and 212.055 shall be reallocated to
14 the Discretionary Sales Surtax Clearing Trust Fund.

15 (c) Proceeds from the fees imposed under ss.
16 212.05(1)(i)3. and 212.18(3) shall remain with the General
17 Revenue Fund.

18 (d) The proceeds of all other taxes and fees imposed
19 pursuant to this chapter or remitted pursuant to s.
20 202.18(1)(b), (2)(b)1., and (2)(c)1.~~s. 202.18(1)(b) and~~
21 ~~(2)(b)~~ shall be distributed as follows:

22 1. In any fiscal year, the greater of \$500 million,
23 minus an amount equal to 4.6 percent of the proceeds of the
24 taxes collected pursuant to chapter 201, or 5 percent of all
25 other taxes and fees imposed pursuant to this chapter or
26 remitted pursuant to s. 202.18(1)(b), (2)(b)1., and (2)(c)1.
27 ~~s. 202.18(1)(b) and (2)(b)~~ shall be deposited in monthly
28 installments into the General Revenue Fund.

29 2. Two-tenths of one percent shall be transferred to
30 the Solid Waste Management Trust Fund.

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1 3. After the distribution under subparagraphs 1. and
2 2., 9.653 percent of the amount remitted by a sales tax dealer
3 located within a participating county pursuant to s. 218.61
4 shall be transferred into the Local Government Half-cent Sales
5 Tax Clearing Trust Fund.

6 4. After the distribution under subparagraphs 1., 2.,
7 and 3., 0.065 percent shall be transferred to the Local
8 Government Half-cent Sales Tax Clearing Trust Fund and
9 distributed pursuant to s. 218.65.

10 5. For proceeds received after July 1, 2000, and after
11 the distributions under subparagraphs 1., 2., 3., and 4., 2.25
12 percent of the available proceeds pursuant to this paragraph
13 shall be transferred monthly to the Revenue Sharing Trust Fund
14 for Counties pursuant to s. 218.215.

15 6. For proceeds received after July 1, 2000, and after
16 the distributions under subparagraphs 1., 2., 3., and 4.,
17 1.0715 percent of the available proceeds pursuant to this
18 paragraph shall be transferred monthly to the Revenue Sharing
19 Trust Fund for Municipalities pursuant to s. 218.215. If the
20 total revenue to be distributed pursuant to this subparagraph
21 is at least as great as the amount due from the Revenue
22 Sharing Trust Fund for Municipalities and the Municipal
23 Financial Assistance Trust Fund in state fiscal year
24 1999-2000, no municipality shall receive less than the amount
25 due from the Revenue Sharing Trust Fund for Municipalities and
26 the Municipal Financial Assistance Trust Fund in state fiscal
27 year 1999-2000. If the total proceeds to be distributed are
28 less than the amount received in combination from the Revenue
29 Sharing Trust Fund for Municipalities and the Municipal
30 Financial Assistance Trust Fund in state fiscal year
31 1999-2000, each municipality shall receive an amount

1 proportionate to the amount it was due in state fiscal year
2 1999-2000.

3 7. Of the remaining proceeds:

4 a. Beginning July 1, 2000, and in each fiscal year
5 thereafter, the sum of \$29,915,500 shall be divided into as
6 many equal parts as there are counties in the state, and one
7 part shall be distributed to each county. The distribution
8 among the several counties shall begin each fiscal year on or
9 before January 5th and shall continue monthly for a total of 4
10 months. If a local or special law required that any moneys
11 accruing to a county in fiscal year 1999-2000 under the
12 then-existing provisions of s. 550.135 be paid directly to the
13 district school board, special district, or a municipal
14 government, such payment shall continue until such time that
15 the local or special law is amended or repealed. The state
16 covenants with holders of bonds or other instruments of
17 indebtedness issued by local governments, special districts,
18 or district school boards prior to July 1, 2000, that it is
19 not the intent of this subparagraph to adversely affect the
20 rights of those holders or relieve local governments, special
21 districts, or district school boards of the duty to meet their
22 obligations as a result of previous pledges or assignments or
23 trusts entered into which obligated funds received from the
24 distribution to county governments under then-existing s.
25 550.135. This distribution specifically is in lieu of funds
26 distributed under s. 550.135 prior to July 1, 2000.

27 b. The department shall distribute \$166,667 monthly
28 pursuant to s. 288.1162 to each applicant that has been
29 certified as a "facility for a new professional sports
30 franchise" or a "facility for a retained professional sports
31 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be

1 distributed monthly by the department to each applicant that
 2 has been certified as a "facility for a retained spring
 3 training franchise" pursuant to s. 288.1162; however, not more
 4 than \$208,335 may be distributed monthly in the aggregate to
 5 all certified facilities for a retained spring training
 6 franchise. Distributions shall begin 60 days following such
 7 certification and shall continue for not more than 30 years.
 8 Nothing contained in this paragraph shall be construed to
 9 allow an applicant certified pursuant to s. 288.1162 to
 10 receive more in distributions than actually expended by the
 11 applicant for the public purposes provided for in s.
 12 288.1162(6). However, a certified applicant is entitled to
 13 receive distributions up to the maximum amount allowable and
 14 undistributed under this section for additional renovations
 15 and improvements to the facility for the franchise without
 16 additional certification.

17 c. Beginning 30 days after notice by the Office of
 18 Tourism, Trade, and Economic Development to the Department of
 19 Revenue that an applicant has been certified as the
 20 professional golf hall of fame pursuant to s. 288.1168 and is
 21 open to the public, \$166,667 shall be distributed monthly, for
 22 up to 300 months, to the applicant.

23 d. Beginning 30 days after notice by the Office of
 24 Tourism, Trade, and Economic Development to the Department of
 25 Revenue that the applicant has been certified as the
 26 International Game Fish Association World Center facility
 27 pursuant to s. 288.1169, and the facility is open to the
 28 public, \$83,333 shall be distributed monthly, for up to 168
 29 months, to the applicant. This distribution is subject to
 30 reduction pursuant to s. 288.1169. A lump sum payment of
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1 \$999,996 shall be made, after certification and before July 1,
2 2000.

3 8. All other proceeds shall remain with the General
4 Revenue Fund.

5 Section 7. Except as otherwise expressly provided in
6 this act, this act shall take effect July 1, 2002.

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