

By Senator Haridopolos

26-1383-04

See HB 735

1 A bill to be entitled
2 An act relating to the tax on substitute
3 communications systems; amending s. 202.11,
4 F.S.; deleting certain definitions; amending s.
5 202.12, F.S.; deleting a provision relating to
6 the manner in which the tax on gross receipts
7 for communications services is applied to a
8 substitute communications system; amending ss.
9 202.16, 202.17, and 202.18, F.S.; correcting
10 cross-references; amending s. 202.19, F.S.;
11 deleting a provision authorizing the imposition
12 of a local communications services tax on
13 substitute communications systems; repealing s.
14 202.15, F.S., relating to special rules for
15 users of substitute communications systems;
16 providing an effective date.

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

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20 Section 1. Subsections (2) through (15) of section
21 202.11, Florida Statutes, are renumbered as subsections (1)
22 through (14), respectively, subsections (17) through (25) of
23 that section are renumbered as subsections (15) through (23),
24 respectively, and present subsections (1) and (16) of that
25 section are amended to read:

26 202.11 Definitions.--As used in this chapter:

27 ~~(1) "Actual cost of operating a substitute~~
28 ~~communications system" includes, but is not limited to,~~
29 ~~depreciation, interest, maintenance, repair, and other~~
30 ~~expenses directly attributable to the operation of such~~
31 ~~system. For purposes of this chapter, the depreciation expense~~

1 ~~included in actual cost is the depreciation expense claimed~~
2 ~~for federal income tax purposes. The total amount of any~~
3 ~~payment required by a lease or rental contract or agreement~~
4 ~~must be included within the actual cost of operating the~~
5 ~~substitute communications system.~~

6 ~~(16) "Substitute communications system" means any~~
7 ~~telephone system, or other system capable of providing~~
8 ~~communications services, which a person purchases, installs,~~
9 ~~rents, or leases for his or her own use to provide himself or~~
10 ~~herself with services used as a substitute for any switched~~
11 ~~service or dedicated facility by which a dealer of~~
12 ~~communications services provides a communication path.~~

13 Section 2. Paragraphs (c), (d), and (e) of subsection
14 (1) of section 202.12, Florida Statutes, are redesignated as
15 paragraphs (b), (c), and (d), respectively, and present
16 paragraph (b) of subsection (1) of that section is amended to
17 read:

18 202.12 Sales of communications services.--The
19 Legislature finds that every person who engages in the
20 business of selling communications services at retail in this
21 state is exercising a taxable privilege. It is the intent of
22 the Legislature that the tax imposed by chapter 203 be
23 administered as provided in this chapter.

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

27 ~~(b) At the rate set forth in paragraph (a) on the~~
28 ~~actual cost of operating a substitute communications system,~~
29 ~~to be paid in accordance with s. 202.15. This paragraph does~~
30 ~~not apply to the use by any dealer of his or her own~~
31 ~~communications system to conduct a business of providing~~

1 ~~communications services or any communications system operated~~
2 ~~by a county, a municipality, the state, or any political~~
3 ~~subdivision of the state. The gross receipts tax imposed by~~
4 ~~chapter 203 shall be applied to the same costs, and remitted~~
5 ~~with the tax imposed by this paragraph.~~

6 Section 3. Paragraph (a) of subsection (1) of section
7 202.16, Florida Statutes, is amended to read:

8 202.16 Payment.--The taxes imposed or administered
9 under this chapter and chapter 203 shall be collected from all
10 dealers of taxable communications services on the sale at
11 retail in this state of communications services taxable under
12 this chapter and chapter 203. The full amount of the taxes on
13 a credit sale, installment sale, or sale made on any kind of
14 deferred payment plan is due at the moment of the transaction
15 in the same manner as a cash sale.

16 (1)(a) ~~Except as otherwise provided in ss.~~
17 ~~202.12(1)(b) and 202.15,~~The taxes collected under this
18 chapter and chapter 203 shall be paid by the purchaser of the
19 communications service and shall be collected from such person
20 by the dealer of communications services.

21 Section 4. Subsection (6) of section 202.17, Florida
22 Statutes, is amended to read:

23 202.17 Registration.--

24 (6) In addition to the certificate of registration,
25 the department shall provide to each newly registered dealer
26 an initial resale certificate that is valid for the remainder
27 of the period of issuance. The department shall provide to
28 each active dealer, ~~except persons registered pursuant to s.~~
29 ~~202.15,~~an annual resale certificate. As used in this section,
30 the term "active dealer" means a person who is registered with
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1 the department and who is required to file a return at least
2 once during each applicable reporting period.

3 Section 5. Subsection (1) of section 202.18, Florida
4 Statutes, is amended to read:

5 202.18 Allocation and disposition of tax
6 proceeds.--The proceeds of the communications services taxes
7 remitted under this chapter shall be treated as follows:

8 (1) The proceeds of the taxes remitted under s.
9 202.12(1)(a) ~~and (b)~~ shall be divided as follows:

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

14 (b) The remaining portion shall be distributed
15 according to s. 212.20(6).

16 Section 6. Subsections (8) through (12) of section
17 202.19, Florida Statutes, are renumbered as subsections (7)
18 through (11), respectively, and present subsection (7) of that
19 section is amended to read:

20 202.19 Authorization to impose local communications
21 services tax.--

22 ~~(7) Any tax imposed by a municipality, school board,
23 or county under this section also applies to the actual cost
24 of operating a substitute communications system, to be paid in
25 accordance with s. 202.15. This subsection does not apply to
26 the use by any provider of its own communications system to
27 conduct a business of providing communications services or to
28 the use of any communications system operated by a county, a
29 municipality, the state, or any political subdivision of the
30 state.~~

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1 Section 7. Section 202.15, Florida Statutes, is
2 repealed.
3 Section 8. This act shall take effect upon becoming a
4 law.
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