

CHAMBER ACTION

1 The Committee on Business Regulation recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the tax on substitute communications
7 systems; amending s. 202.11, F.S.; deleting certain
8 definitions; amending s. 202.12, F.S.; deleting a
9 provision relating to the manner in which the tax on gross
10 receipts for communications services is applied to a
11 substitute communications system; amending ss. 202.16,
12 202.17, and 202.18, F.S.; correcting cross references;
13 amending s. 202.19, F.S.; deleting a provision authorizing
14 the imposition of a local communications services tax on
15 substitute communications systems; amending s. 203.01,
16 F.S.; deleting a provision authorizing the imposition of a
17 gross receipts tax on actual costs of operating substitute
18 communications systems; specifying that retroactive
19 operation is remedial and does not create any right to or
20 require any refunds; repealing s. 202.15, F.S., relating
21 to special rules for users of substitute communications
22 systems; providing for retroactive operation; providing an
23 effective date.

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

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

202.11 Definitions.--As used in this chapter:

~~(1) "Actual cost of operating a substitute communications system" includes, but is not limited to, depreciation, interest, maintenance, repair, and other expenses directly attributable to the operation of such system. For purposes of this chapter, the depreciation expense included in actual cost is the depreciation expense claimed for federal income tax purposes. The total amount of any payment required by a lease or rental contract or agreement must be included within the actual cost of operating the substitute communications system.~~

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

Section 2. Paragraphs (c), (d), and (e) of subsection (1) of section 202.12, Florida Statutes, are redesignated as

52 paragraphs (b), (c), and (d), respectively, and present
 53 paragraph (b) of subsection (1) of said section is amended to
 54 read:

55 202.12 Sales of communications services.--The Legislature
 56 finds that every person who engages in the business of selling
 57 communications services at retail in this state is exercising a
 58 taxable privilege. It is the intent of the Legislature that the
 59 tax imposed by chapter 203 be administered as provided in this
 60 chapter.

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

64 ~~(b) At the rate set forth in paragraph (a) on the actual~~
 65 ~~cost of operating a substitute communications system, to be paid~~
 66 ~~in accordance with s. 202.15. This paragraph does not apply to~~
 67 ~~the use by any dealer of his or her own communications system to~~
 68 ~~conduct a business of providing communications services or any~~
 69 ~~communications system operated by a county, a municipality, the~~
 70 ~~state, or any political subdivision of the state. The gross~~
 71 ~~receipts tax imposed by chapter 203 shall be applied to the same~~
 72 ~~costs, and remitted with the tax imposed by this paragraph.~~

73 Section 3. Paragraph (a) of subsection (1) of section
 74 202.16, Florida Statutes, is amended to read:

75 202.16 Payment.--The taxes imposed or administered under
 76 this chapter and chapter 203 shall be collected from all dealers
 77 of taxable communications services on the sale at retail in this
 78 state of communications services taxable under this chapter and
 79 chapter 203. The full amount of the taxes on a credit sale,

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80 | installment sale, or sale made on any kind of deferred payment
81 | plan is due at the moment of the transaction in the same manner
82 | as a cash sale.

83 | (1)(a) ~~Except as otherwise provided in ss. 202.12(1)(b)~~
84 | ~~and 202.15,~~ The taxes collected under this chapter and chapter
85 | 203 shall be paid by the purchaser of the communications service
86 | and shall be collected from such person by the dealer of
87 | communications services.

88 | Section 4. Subsection (6) of section 202.17, Florida
89 | Statutes, is amended to read:

90 | 202.17 Registration.--

91 | (6) In addition to the certificate of registration, the
92 | department shall provide to each newly registered dealer an
93 | initial resale certificate that is valid for the remainder of
94 | the period of issuance. The department shall provide to each
95 | active dealer, ~~except persons registered pursuant to s. 202.15,~~
96 | an annual resale certificate. As used in this section, the term
97 | "active dealer" means a person who is registered with the
98 | department and who is required to file a return at least once
99 | during each applicable reporting period.

100 | Section 5. Subsection (1) of section 202.18, Florida
101 | Statutes, is amended to read:

102 | 202.18 Allocation and disposition of tax proceeds.--The
103 | proceeds of the communications services taxes remitted under
104 | this chapter shall be treated as follows:

105 | (1) The proceeds of the taxes remitted under s.
106 | 202.12(1)(a) ~~and (b)~~ shall be divided as follows:

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107 (a) The portion of such proceeds which constitutes gross
 108 receipts taxes, imposed at the rate prescribed in chapter 203,
 109 shall be deposited as provided by law and in accordance with s.
 110 9, Art. XII of the State Constitution.

111 (b) The remaining portion shall be distributed according
 112 to s. 212.20(6).

113 Section 6. Subsections (8) through (12) of section 202.19,
 114 Florida Statutes, are renumbered as subsections (7) through
 115 (11), respectively, and present subsection (7) of said section
 116 is amended to read:

117 202.19 Authorization to impose local communications
 118 services tax.--

119 ~~(7) Any tax imposed by a municipality, school board, or~~
 120 ~~county under this section also applies to the actual cost of~~
 121 ~~operating a substitute communications system, to be paid in~~
 122 ~~accordance with s. 202.15. This subsection does not apply to the~~
 123 ~~use by any provider of its own communications system to conduct~~
 124 ~~a business of providing communications services or to the use of~~
 125 ~~any communications system operated by a county, a municipality,~~
 126 ~~the state, or any political subdivision of the state.~~

127 Section 7. Paragraph (a) of subsection (1) of section
 128 203.01, Florida Statutes, is amended to read:

129 203.01 Tax on gross receipts for utility and
 130 communications services.--

131 (1)(a)1. Every person that receives payment for any
 132 utility service shall report by the last day of each month to
 133 the Department of Revenue, under oath of the secretary or some
 134 other officer of such person, the total amount of gross receipts

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135 derived from business done within this state, or between points
 136 within this state, for the preceding month and, at the same
 137 time, shall pay into the State Treasury an amount equal to a
 138 percentage of such gross receipts at the rate set forth in
 139 paragraph (b). Such collections shall be certified by the Chief
 140 Financial Officer upon the request of the State Board of
 141 Education.

142 2. A tax is levied on communications services as defined
 143 in s. 202.11(3). Such tax shall be applied to the same services
 144 and transactions as are subject to taxation under chapter 202,
 145 and to communications services that are subject to the exemption
 146 provided in s. 202.125(1). Such tax shall be applied to the
 147 sales price of communications services when sold at retail ~~and~~
 148 ~~to the actual cost of operating substitute communications~~
 149 ~~systems~~, as such terms are defined in s. 202.11, shall be due
 150 and payable at the same time as the taxes imposed pursuant to
 151 chapter 202, and shall be administered and collected pursuant to
 152 the provisions of chapter 202.

153 Section 8. The retroactive application of the provisions
 154 of this act are remedial in nature and shall not be construed to
 155 create a right to a refund or to require a refund by any
 156 governmental entity of any tax, penalty, or interest remitted to
 157 the Department of Revenue on substitute communications systems
 158 prior to the effective date of this act.

159 Section 9. Section 202.15, Florida Statutes, is repealed.

160 Section 10. This act shall take effect upon becoming a law
 161 and shall apply retroactively to October 1, 2001.