

1 Section 1. Effective upon this act becoming a law, and
2 operating retroactively to December 31, 2004, subsection (2)
3 of section 202.16, Florida Statutes, is amended to read:

4 202.16 Payment.--The taxes imposed or administered
5 under this chapter and chapter 203 shall be collected from all
6 dealers of taxable communications services on the sale at
7 retail in this state of communications services taxable under
8 this chapter and chapter 203. The full amount of the taxes on
9 a credit sale, installment sale, or sale made on any kind of
10 deferred payment plan is due at the moment of the transaction
11 in the same manner as a cash sale.

12 (2)(a) A sale of communications services that are used
13 as a component part of or integrated into a communications
14 service or prepaid calling arrangement for resale, including,
15 but not limited to, carrier-access charges, interconnection
16 charges paid by providers of mobile communication services or
17 other communication services, charges paid by cable service
18 providers for the transmission of video or other programming
19 by another dealer of communications services, charges for the
20 sale of unbundled network elements, and any other intercompany
21 charges for the use of facilities for providing communications
22 services for resale, must be made in compliance with the rules
23 of the department. Any person who makes a sale for resale
24 which is not in compliance with these rules is liable for any
25 tax, penalty, and interest due for failing to comply, to be
26 calculated pursuant to s. 202.28(2)(a).

27 **(b)1. Any dealer who makes a sale for resale shall**
28 **document the exempt nature of the transaction, as established**
29 **by rules adopted by the department, by retaining a copy of the**
30 **purchaser's initial or annual resale certificate issued**
31 **pursuant to s. 202.17(6). In lieu of maintaining a copy of the**

1 certificate, a dealer may document, prior to the time of sale,
2 an authorization number, provided telephonically or
3 electronically by the department or by such other means
4 established by rule of the department. The dealer may rely on
5 an initial or annual resale certificate issued pursuant to s.
6 202.17(6), valid at the time of receipt from the purchaser,
7 without seeking additional annual resale certificates from
8 such purchaser, if the dealer makes recurring sales to the
9 purchaser in the normal course of business on a continual
10 basis. For purposes of this paragraph, the term "recurring
11 sales to a purchaser in the normal course of business" means a
12 sale in which the dealer extends credit to the purchaser and
13 records the debt as an account receivable, or in which the
14 dealer sells to a purchaser who has an established cash
15 account, similar to an open credit account. For purposes of
16 this paragraph, purchases are made from a selling dealer on a
17 continual basis if the selling dealer makes, in the normal
18 course of business, sales to the purchaser no less frequently
19 than once in every 12-month period.

20 2. A dealer may, through the informal protest process
21 provided for in s. 213.21 and the rules of the department,
22 provide the department with evidence of the exempt status of a
23 sale. Exemption certificates executed by entities that were
24 exempt at the time of sale, resale certificates provided by
25 purchasers who were active dealers at the time of sale, and
26 verification by the department of a purchaser's active dealer
27 status at the time of sale in lieu of a resale certificate
28 shall be accepted by the department when submitted during the
29 protest period but may not be accepted in any proceeding under
30 chapter 120 or any circuit court action instituted under
31 chapter 72.

1 Section 2. Paragraph (a) of subsection (3) of section
2 202.19, Florida Statutes, is amended to read:

3 202.19 Authorization to impose local communications
4 services tax.--

5 (3)(a) The tax authorized under this section includes
6 and is in lieu of any fee or other consideration, including,
7 but not limited to, application fees, transfer fees, renewal
8 fees, or claims for related costs, to which the municipality
9 or county is otherwise entitled for granting permission to
10 dealers of communications services, including, but not limited
11 to, providers of cable television services, as authorized in
12 47 U.S.C. s. 542, to use or occupy its roads or rights-of-way
13 for the placement, construction, and maintenance of poles,
14 wires, and other fixtures used in the provision of
15 communications services.

16 Section 3. Paragraph (a) of subsection (2) of section
17 202.20, Florida Statutes, is amended to read:

18 202.20 Local communications services tax conversion
19 rates.--

20 (2)(a)1. With respect to any local taxing
21 jurisdiction, if, for the periods ending December 31, 2001;
22 March 31, 2002; June 30, 2002; or September 30, 2002, the
23 revenues received by that local government from the local
24 communications services tax imposed under subsection (1) are
25 less than the revenues received from the replaced revenue
26 sources for the corresponding 2000-2001 period; plus
27 reasonably anticipated growth in such revenues over the
28 preceding 1-year period, based on the average growth of such
29 revenues over the immediately preceding 5-year period; plus an
30 amount representing the revenues from the replaced revenue
31 sources for the 1-month period that the local taxing

1 jurisdiction was required to forego, the governing authority
2 may adjust the rate of the local communications services tax
3 upward to the extent necessary to generate the entire
4 shortfall in revenues within 1 year after the rate adjustment
5 and by an amount necessary to generate the expected amount of
6 revenue on an ongoing basis.

7 2. If complete data are not available at the time of
8 determining whether the revenues received by a local
9 government from the local communications services tax imposed
10 under subsection (1) are less than the revenues received from
11 the replaced revenue sources for the corresponding 2000-2001
12 period, as set forth in subparagraph 1., the local government
13 shall use the best data available for the corresponding
14 2000-2001 period in making such determination.

15 3. The adjustment permitted under subparagraph 1. may
16 be made by emergency ordinance or resolution and may be made
17 notwithstanding the maximum rate established under s.
18 202.19(2) and notwithstanding any schedules or timeframes or
19 any other limitations contained in this chapter. The authority
20 of a local government to make such adjustment may be exercised
21 only if the department or a dealer reallocates revenue away
22 from the local government. The emergency ordinance or
23 resolution shall specify an effective date for the adjusted
24 rate, which shall be no less than 60 days after the date of
25 adoption of the ordinance or resolution and shall be effective
26 with respect to taxable services included on bills that are
27 dated on the first day of a month subsequent to the expiration
28 of the 60-day period. At the end of 1 year following the
29 effective date of such adjusted rate, the local governing
30 authority shall, as soon as is consistent with s. 202.21,
31 reduce the rate by that portion of the emergency rate which

1 was necessary to recoup the amount of revenues not received
2 prior to the implementation of the emergency rate.

3 4. If, for the period October 1, 2001, through
4 September 30, 2002, the revenues received by a local
5 government from the local communications services tax
6 conversion rate established under subsection (1), adjusted
7 upward for the difference in rates between paragraphs (1)(a)
8 and (b) or any other rate adjustments or base changes, are
9 above the threshold of 10 percent more than the revenues
10 received from the replaced revenue sources for the
11 corresponding 2000-2001 period plus reasonably anticipated
12 growth in such revenues over the preceding 1-year period,
13 based on the average growth of such revenues over the
14 immediately preceding 5-year period, the governing authority
15 must adjust the rate of the local communications services tax
16 to the extent necessary to reduce revenues to the threshold by
17 emergency ordinance or resolution within the timeframes
18 established in subparagraph 3. The foregoing rate adjustment
19 requirement shall not apply to a local government that adopts
20 a local communications services tax rate by resolution or
21 ordinance. If complete data are not available at the time of
22 determining whether the revenues exceed the threshold, the
23 local government shall use the best data available for the
24 corresponding 2000-2001 period in making such determination.
25 This subparagraph shall not be construed as establishing a
26 right of action for any person to enforce this subparagraph or
27 challenge a local government's implementation of this
28 subparagraph.

29 Section 4. Effective July 1, 2007, subsection (2) of
30 section 202.20, Florida Statutes, as amended by this act, is
31 amended to read:

1 202.20 Local communications services tax conversion
2 rates.--

3 ~~(2)(a)1. With respect to any local taxing~~
4 ~~jurisdiction, if, for the periods ending December 31, 2001;~~
5 ~~March 31, 2002; June 30, 2002; or September 30, 2002, the~~
6 ~~revenues received by that local government from the local~~
7 ~~communications services tax imposed under subsection (1) are~~
8 ~~less than the revenues received from the replaced revenue~~
9 ~~sources for the corresponding 2000-2001 period; plus~~
10 ~~reasonably anticipated growth in such revenues over the~~
11 ~~preceding 1 year period, based on the average growth of such~~
12 ~~revenues over the immediately preceding 5 year period; plus an~~
13 ~~amount representing the revenues from the replaced revenue~~
14 ~~sources for the 1 month period that the local taxing~~
15 ~~jurisdiction was required to forego, the governing authority~~
16 ~~may adjust the rate of the local communications services tax~~
17 ~~upward to the extent necessary to generate the entire~~
18 ~~shortfall in revenues within 1 year after the rate adjustment~~
19 ~~and by an amount necessary to generate the expected amount of~~
20 ~~revenue on an ongoing basis.~~

21 ~~2. If complete data are not available at the time of~~
22 ~~determining whether the revenues received by a local~~
23 ~~government from the local communications services tax imposed~~
24 ~~under subsection (1) are less than the revenues received from~~
25 ~~the replaced revenue sources for the corresponding 2000-2001~~
26 ~~period, as set forth in subparagraph 1., the local government~~
27 ~~shall use the best data available for the corresponding~~
28 ~~2000-2001 period in making such determination.~~

29 ~~3. The adjustment permitted under subparagraph 1. may~~
30 ~~be made by emergency ordinance or resolution and may be made~~
31 ~~notwithstanding the maximum rate established under s.~~

1 ~~202.19(2) and notwithstanding any schedules or timeframes or~~
2 ~~any other limitations contained in this chapter. The authority~~
3 ~~of a local government to make such adjustment may be exercised~~
4 ~~only if the department or a dealer reallocates revenue away~~
5 ~~from the local government. The emergency ordinance or~~
6 ~~resolution shall specify an effective date for the adjusted~~
7 ~~rate, which shall be no less than 60 days after the date of~~
8 ~~adoption of the ordinance or resolution and shall be effective~~
9 ~~with respect to taxable services included on bills that are~~
10 ~~dated on the first day of a month subsequent to the expiration~~
11 ~~of the 60 day period. At the end of 1 year following the~~
12 ~~effective date of such adjusted rate, the local governing~~
13 ~~authority shall, as soon as is consistent with s. 202.21,~~
14 ~~reduce the rate by that portion of the emergency rate which~~
15 ~~was necessary to recoup the amount of revenues not received~~
16 ~~prior to the implementation of the emergency rate.~~

17 ~~4. If, for the period October 1, 2001, through~~
18 ~~September 30, 2002, the revenues received by a local~~
19 ~~government from the local communications services tax~~
20 ~~conversion rate established under subsection (1), adjusted~~
21 ~~upward for the difference in rates between paragraphs (1)(a)~~
22 ~~and (b) or any other rate adjustments or base changes, are~~
23 ~~above the threshold of 10 percent more than the revenues~~
24 ~~received from the replaced revenue sources for the~~
25 ~~corresponding 2000-2001 period plus reasonably anticipated~~
26 ~~growth in such revenues over the preceding 1 year period,~~
27 ~~based on the average growth of such revenues over the~~
28 ~~immediately preceding 5 year period, the governing authority~~
29 ~~must adjust the rate of the local communications services tax~~
30 ~~to the extent necessary to reduce revenues to the threshold by~~
31 ~~emergency ordinance or resolution within the timeframes~~

1 ~~established in subparagraph 3. The foregoing rate adjustment~~
2 ~~requirement shall not apply to a local government that adopts~~
3 ~~a local communications services tax rate by resolution or~~
4 ~~ordinance. If complete data are not available at the time of~~
5 ~~determining whether the revenues exceed the threshold, the~~
6 ~~local government shall use the best data available for the~~
7 ~~corresponding 2000-2001 period in making such determination.~~
8 ~~This subparagraph shall not be construed as establishing a~~
9 ~~right of action for any person to enforce this subparagraph or~~
10 ~~challenge a local government's implementation of this~~
11 ~~subparagraph.~~

12 ~~(b) The term~~ Except as otherwise provided in this
13 ~~subsection,~~ "replaced revenue sources," as used in this
14 section, means the following taxes, charges, fees, or other
15 impositions to the extent that the respective local taxing
16 jurisdictions were authorized to impose them prior to July 1,
17 2000.

18 ~~(a)1-~~ With respect to municipalities and charter
19 counties and the taxes authorized by s. 202.19(1):

20 ~~1.a-~~ The public service tax on telecommunications
21 authorized by former s. 166.231(9).

22 ~~2.b-~~ Franchise fees on cable service providers as
23 authorized by 47 U.S.C. s. 542.

24 ~~3.c-~~ The public service tax on prepaid calling
25 arrangements.

26 ~~4.d-~~ Franchise fees on dealers of communications
27 services which use the public roads or rights-of-way, up to
28 the limit set forth in s. 337.401. For purposes of calculating
29 rates under this section, it is the legislative intent that
30 charter counties be treated as having had the same authority
31 as municipalities to impose franchise fees on recurring local

1 telecommunication service revenues prior to July 1, 2000.
2 However, the Legislature recognizes that the authority of
3 charter counties to impose such fees is in dispute, and the
4 treatment provided in this section is not an expression of
5 legislative intent that charter counties actually do or do not
6 possess such authority.

7 ~~5.e.~~ Actual permit fees relating to placing or
8 maintaining facilities in or on public roads or rights-of-way,
9 collected from providers of long-distance, cable, and mobile
10 communications services for the fiscal year ending September
11 30, 1999; however, if a municipality or charter county elects
12 the option to charge permit fees pursuant to s.
13 337.401(3)(c)1.a., such fees shall not be included as a
14 replaced revenue source.

15 ~~(b)2.~~ With respect to all other counties and the taxes
16 authorized in s. 202.19(1), franchise fees on cable service
17 providers as authorized by 47 U.S.C. s. 542.

18 Section 5. Effective July 1, 2007, section 202.21,
19 Florida Statutes, is amended to read:

20 202.21 Effective dates; procedures for informing
21 dealers of communications services of tax levies and rate
22 changes.--Any adoption, repeal, or change in the rate of a
23 local communications services tax imposed under s. 202.19 is
24 effective with respect to taxable services included on bills
25 that are dated on or after the January 1 subsequent to such
26 adoption, repeal, or change. A municipality or county
27 adopting, repealing, or changing the rate of such tax must
28 notify the department of the adoption, repeal, or change by
29 September 1 immediately preceding such January 1. Notification
30 must be furnished on a form prescribed by the department and
31 must specify the rate of tax; the effective date of the

1 adoption, repeal, or change thereof; and the name, mailing
2 address, and telephone number of a person designated by the
3 municipality or county to respond to inquiries concerning the
4 tax. The department shall provide notice of such adoption,
5 repeal, or change to all affected dealers of communications
6 services at least 90 days before the effective date of the
7 tax. ~~Any local government that adjusts the rate of its local~~
8 ~~communications services tax by emergency ordinance or~~
9 ~~resolution pursuant to s. 202.20(2) shall notify the~~
10 ~~department of the new tax rate immediately upon its adoption.~~
11 ~~The department shall provide written notice of the adoption of~~
12 ~~the new rate to all affected dealers within 30 days after~~
13 ~~receiving such notice.~~ In any notice to providers or
14 publication of local tax rates for purposes of this chapter,
15 the department shall express the rate for a municipality or
16 charter county as the sum of the tax rates levied within such
17 jurisdiction pursuant to s. 202.19(2)(a) and (5), and shall
18 express the rate for any other county as the sum of the tax
19 rates levied pursuant to s. 202.19(2)(b) and (5). The
20 department is not liable for any loss of or decrease in
21 revenue by reason of any error, omission, or untimely action
22 that results in the nonpayment of a tax imposed under s.
23 202.19.

24 Section 6. The amendments to section 202.19(3)(a),
25 Florida Statutes, contained in this act are remedial in nature
26 and intended to clarify the law in effect on October 1, 2001,
27 but do not grant any right to a refund of any fees or charges
28 paid prior to July 1, 2004, unless the payment was made under
29 written protest as to the authority of any local government to
30 impose such fees or costs on a dealer.

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1 Section 7. Except as otherwise provided herein, this
2 act shall take effect upon becoming a law.
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