

1 A bill to be entitled

2 An act relating to telecommunications regulation; amending
3 s. 364.01, F.S.; providing that state laws governing
4 business and consumer protection be applied to
5 communications activities that are not regulated by the
6 commission; revising provisions governing the exclusive
7 jurisdiction of the commission; creating s. 364.011, F.S.;
8 specifying certain services that are exempt from oversight
9 by the commission; creating s. 364.012, F.S.; directing
10 the commission to maintain liaison with federal agencies;
11 providing that ch. 364, F.S., does not limit or modify
12 certain duties of a local exchange carrier; creating s.
13 364.013, F.S.; requiring that broadband service and voice-
14 over-Internet protocol be free of state regulation, except
15 as specifically provided; amending s. 364.02, F.S.;
16 defining the terms "broadband service" and "VoIP";
17 revising the definition of "service"; amending s.
18 364.0361, F.S.; prohibiting a local government from
19 regulating the provision of voice-over-Internet protocol;
20 amending s. 364.051, F.S.; providing that evidence of
21 damage caused by a tropical storm system constitutes a
22 compelling showing of changed circumstances to justify a
23 change in rates; revising procedures to recover certain
24 costs and expenses; providing conditions to qualify for
25 filing a petition for recovery; providing for the
26 commission to order a line-item charge for a certain
27 period to recover costs and expenses of such damage;
28 limiting amount of such charge; providing for verification

29 of amounts collected; limiting the number of petitions for
30 recovery of costs and expenses; amending s. 364.10, F.S.;
31 revising the income threshold for eligibility for Lifeline
32 service; amending s. 364.335, F.S.; increasing the maximum
33 allowable filing fee for certification of
34 telecommunications carriers; amending s. 364.336, F.S.;
35 providing minimum regulatory assessment fees to be
36 assessed by rule of the commission; repealing s. 364.502,
37 F.S., relating to video programming services; amending ss.
38 196.012, 199.183, 212.08, 290.007, 350.0605, 364.602, and
39 489.103, F.S.; conforming cross references; providing for
40 construction of the act; providing effective dates.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Subsection (3) and paragraphs (d) and (f) of
45 subsection (4) of section 364.01, Florida Statutes, are amended
46 to read:

47 364.01 Powers of commission, legislative intent.--

48 (3) Communications activities that are not regulated by
49 the Florida Public Service Commission, including, but not
50 limited to, VoIP, wireless, and broadband, are subject to this
51 state's generally applicable business regulation and deceptive
52 trade practices and consumer protection laws, as enforced by the
53 appropriate state authority or through actions in the judicial
54 system. This chapter does not limit the availability to any
55 party of any remedy or defense under state or federal antitrust
56 laws. The Legislature finds that the competitive provision of

57 | telecommunications services, including local exchange
58 | telecommunications service, is in the public interest and will
59 | provide customers with freedom of choice, encourage the
60 | introduction of new telecommunications service, encourage
61 | technological innovation, and encourage investment in
62 | telecommunications infrastructure. The Legislature further finds
63 | that the transition from the monopoly provision of local
64 | exchange service to the competitive provision thereof will
65 | require appropriate regulatory oversight to protect consumers
66 | and provide for the development of fair and effective
67 | competition, but nothing in this chapter shall limit the
68 | availability to any party of any remedy under state or federal
69 | antitrust laws. The Legislature further finds that changes in
70 | regulations allowing increased competition in telecommunications
71 | services could provide the occasion for increases in the
72 | telecommunications workforce; therefore, it is in the public
73 | interest that competition in telecommunications services lead to
74 | a situation that enhances the high-technological skills and the
75 | economic status of the telecommunications workforce. The
76 | Legislature further finds that the provision of voice-over-
77 | Internet protocol (VOIP) free of unnecessary regulation,
78 | regardless of the provider, is in the public interest.

79 | (4) The commission shall exercise its exclusive
80 | jurisdiction in order to:

81 | (d) Promote competition by encouraging innovation and
82 | investment in ~~new entrants into~~ telecommunications markets and
83 | by allowing a transitional period in which new and emerging
84 | technologies ~~entrants~~ are subject to a reduced ~~lesser~~ level of

85 regulatory oversight ~~than local exchange telecommunications~~
 86 ~~companies.~~

87 (f) Eliminate any rules or ~~and/or~~ regulations which will
 88 delay or impair the transition to competition.

89 Section 2. Section 364.011, Florida Statutes, is created
 90 to read:

91 364.011 Exemptions from commission jurisdiction.--The
 92 following services are exempt from oversight by the commission,
 93 except to the extent delineated in this chapter or specifically
 94 authorized by federal law:

95 (1) Intrastate interexchange telecommunications services.

96 (2) Broadband services, regardless of the provider,
 97 platform, or protocol.

98 (3) VoIP.

99 (4) Wireless telecommunications, including commercial
 100 mobile radio services.

101 Section 3. Section 364.012, Florida Statutes, is created
 102 to read:

103 364.012 Consistency with federal law.--

104 (1) In order to promote commission coordination with
 105 federal policymakers and regulatory agencies, the commission
 106 shall maintain continuous liaisons with appropriate federal
 107 agencies whose policy decisions and rulemaking authority affect
 108 those telecommunications companies over which the commission has
 109 jurisdiction. The commission is encouraged to participate in the
 110 proceedings of federal agencies in cases in which the state's
 111 consumers may be affected and to convey the commission's policy

112 positions and information requirements in order to achieve
 113 greater efficiency in regulation.

114 (2) This chapter does not limit or modify the duties of a
 115 local exchange carrier to provide unbundled access to network
 116 elements or the commission's authority to arbitrate and enforce
 117 interconnection agreements to the extent that those elements are
 118 required under 47 U.S.C. ss. 251 and 252, and under any
 119 regulations issued by the Federal Communications Commission at
 120 rates determined in accordance with the standards established by
 121 the Federal Communications Commission pursuant to 47 C.F.R. ss.
 122 51.503-51.513, inclusive of any successor regulation or
 123 successor forbearance of regulation.

124 Section 4. Section 364.013, Florida Statutes, is created
 125 to read:

126 364.013 Emerging and advanced services.--Broadband service
 127 and the provision of voice-over-Internet protocol (VoIP) shall
 128 be free of state regulation, except as delineated in this
 129 chapter or as specifically authorized by federal law, regardless
 130 of the provider, platform, or protocol.

131 Section 5. Section 364.02, Florida Statutes, is amended to
 132 read:

133 364.02 Definitions.--As used in this chapter:

134 (1) "Basic local telecommunications service" means voice-
 135 grade, flat-rate residential, and flat-rate single-line business
 136 local exchange services which provide dial tone, local usage
 137 necessary to place unlimited calls within a local exchange area,
 138 dual tone multifrequency dialing, and access to the following:
 139 emergency services such as "911," all locally available

140 interexchange companies, directory assistance, operator
141 services, relay services, and an alphabetical directory listing.
142 For a local exchange telecommunications company, such term shall
143 include any extended area service routes, and extended calling
144 service in existence or ordered by the commission on or before
145 July 1, 1995.

146 (2) "Broadband service" means any service that consists of
147 or includes the offering of the capability to transmit or
148 receive information at a rate that is not less than 200 kilobits
149 per second and either:

150 (a) Is used to provide access to the Internet; or

151 (b) Provides computer processing, information storage,
152 information content, or protocol conversion in combination with
153 such service.

154
155 The definition of broadband service does not include any
156 intrastate telecommunications services that have been tariffed
157 with the commission on or before January 1, 2005.

158 (3)-(2) "Commercial mobile radio service provider" means a
159 commercial mobile radio service provider as defined by and
160 pursuant to 47 U.S.C. ss. 153(n) and 332(d).

161 (4)-(3) "Commission" means the Florida Public Service
162 Commission.

163 (5)-(4) "Competitive local exchange telecommunications
164 company" means any company certificated by the commission to
165 provide local exchange telecommunications services in this state
166 on or after July 1, 1995.

167 ~~(6)-(5)~~ "Corporation" includes a corporation, company,
168 association, or joint stock association.

169 ~~(7)-(6)~~ "Intrastate interexchange telecommunications
170 company" means any entity that provides intrastate interexchange
171 telecommunications services.

172 ~~(8)-(7)~~ "Local exchange telecommunications company" means
173 any company certificated by the commission to provide local
174 exchange telecommunications service in this state on or before
175 June 30, 1995.

176 ~~(9)-(8)~~ "Monopoly service" means a telecommunications
177 service for which there is no effective competition, either in
178 fact or by operation of law.

179 ~~(10)-(9)~~ "Nonbasic service" means any telecommunications
180 service provided by a local exchange telecommunications company
181 other than a basic local telecommunications service, a local
182 interconnection arrangement described in s. 364.16, or a network
183 access service described in s. 364.163.

184 ~~(11)-(10)~~ "Operator service" includes, but is not limited
185 to, billing or completion of third-party, person-to-person,
186 collect, or calling card or credit card calls through the use of
187 a live operator or automated equipment.

188 ~~(12)-(11)~~ "Operator service provider" means a person who
189 furnishes operator service through a call aggregator.

190 ~~(13)-(12)~~ "Service" is to be construed in its broadest and
191 most inclusive sense. The term "service" does not include
192 broadband service or voice-over-Internet protocol service for
193 purposes of regulation by the commission. Nothing herein shall
194 affect the rights and obligations of any entity related to the

195 payment of switched network access rates or other intercarrier
 196 compensation, if any, related to voice-over-Internet protocol
 197 service. Notwithstanding the provisions of s. 364.013 and the
 198 exemption of services pursuant to this subsection, the
 199 commission may arbitrate, enforce, or approve interconnection
 200 agreements and resolve disputes as provided by 47 U.S.C. ss. 251
 201 and 252 or any other applicable federal law or regulation. With
 202 respect to the services exempted in this subsection, regardless
 203 of the technology, the duties of a local exchange
 204 telecommunications company are only those that the company is
 205 obligated to extend or provide under applicable federal law and
 206 regulations.

207 ~~(14)~~(13) "Telecommunications company" includes every
 208 corporation, partnership, and person and their lessees,
 209 trustees, or receivers appointed by any court whatsoever, and
 210 every political subdivision in the state, offering two-way
 211 telecommunications service to the public for hire within this
 212 state by the use of a telecommunications facility. The term
 213 "telecommunications company" does not include:

214 (a) An entity which provides a telecommunications facility
 215 exclusively to a certificated telecommunications company;

216 (b) An entity which provides a telecommunications facility
 217 exclusively to a company which is excluded from the definition
 218 of a telecommunications company under this subsection;

219 (c) A commercial mobile radio service provider;

220 (d) A facsimile transmission service;

221 (e) A private computer data network company not offering
 222 service to the public for hire;

223 (f) A cable television company providing cable service as
 224 defined in 47 U.S.C. s. 522; or

225 (g) An intrastate interexchange telecommunications
 226 company.

227
 228 However, each commercial mobile radio service provider and each
 229 intrastate interexchange telecommunications company shall
 230 continue to be liable for any taxes imposed pursuant to chapters
 231 202, 203 and 212 and any fees assessed pursuant to ss. 364.025
 232 and 364.336. Each intrastate interexchange telecommunications
 233 company shall continue to be subject to ss. 364.04, 364.10(3)(a)
 234 and (d), 364.163, 364.285, 364.501, 364.603, and 364.604, shall
 235 provide the commission with such current information as the
 236 commission deems necessary to contact and communicate with the
 237 company, shall continue to pay intrastate switched network
 238 access rates or other intercarrier compensation to the local
 239 exchange telecommunications company or the competitive local
 240 exchange telecommunications company for the origination and
 241 termination of interexchange telecommunications service, and
 242 shall reduce its intrastate long distance toll rates in
 243 accordance with s. 364.163(2).

244 (15)~~(14)~~ "Telecommunications facility" includes real
 245 estate, easements, apparatus, property, and routes used and
 246 operated to provide two-way telecommunications service to the
 247 public for hire within this state.

248 (16) "VoIP" means the voice-over-Internet protocol as that
 249 term is defined in federal law.

250 Section 6. Section 364.0361, Florida Statutes, is amended
 251 to read:

252 364.0361 Local government authority; nondiscriminatory
 253 exercise.--A local government shall treat each
 254 telecommunications company in a nondiscriminatory manner when
 255 exercising its authority to grant franchises to a
 256 telecommunications company or to otherwise establish conditions
 257 or compensation for the use of rights-of-way or other public
 258 property by a telecommunications company. A local government may
 259 not directly or indirectly regulate the terms and conditions,
 260 including, but not limited to, the operating systems,
 261 qualifications, services, service quality, service territory,
 262 and prices, applicable to or in connection with the provision of
 263 any voice-over-Internet protocol, regardless of the provider,
 264 platform, or protocol, or any broadband or information service.
 265 This section does not relieve a provider from any obligations
 266 under s. 166.046 or s. 337.401.

267 Section 7. Effective upon this act becoming a law,
 268 subsection (4) of section 364.051, Florida Statutes, is amended
 269 to read:

270 364.051 Price regulation.--

271 (4) (a) Notwithstanding ~~the provisions of~~ subsection (2),
 272 any local exchange telecommunications company that believes
 273 circumstances have changed substantially to justify any increase
 274 in the rates for basic local telecommunications services may
 275 petition the commission for a rate increase, but the commission
 276 shall grant the ~~such~~ petition only after an opportunity for a
 277 hearing and a compelling showing of changed circumstances. The

278 costs and expenses of any government program or project required
279 in part II ~~may shall~~ not be recovered under this subsection
280 unless the ~~such~~ costs and expenses are incurred in the absence
281 of a bid and subject to carrier-of-last-resort obligations as
282 provided for in part II. The commission shall act upon the ~~any~~
283 ~~such~~ petition within 120 days after ~~of~~ its filing.

284 (b) For purposes of this section, evidence of damage to
285 the lines, plants, or facilities of a local exchange
286 telecommunications company that is subject to carrier-of-last-
287 resort obligations, which damage is the result of a tropical
288 system occurring after June 1, 2005, and named by the National
289 Hurricane Center, constitutes a compelling showing of changed
290 circumstances.

291 1. A company may file a petition to recover its intrastate
292 costs and expenses relating to repairing, restoring, or
293 replacing the lines, plants, or facilities damaged by a named
294 tropical system.

295 2. The commission shall verify the intrastate costs and
296 expenses submitted by the company in support of its petition.

297 3. The company must show and the commission shall
298 determine whether the intrastate costs and expenses are
299 reasonable under the circumstances for the named tropical
300 system.

301 4. A company having a storm reserve may recover tropical-
302 system-related costs and expenses from its customers only in
303 excess of any amount available in the storm reserve fund.

304 5. The commission may determine the amount of any increase
305 that the company may charge its customers, but the charge per

306 line item may not exceed 50 cents per month per customer line
307 for a period of not more than 12 months.

308 6. The commission may order the company to add an equal
309 line-item charge per access line to the billing statement of the
310 company's retail basic local telecommunications service
311 customers, its retail nonbasic telecommunications service
312 customers, and, to the extent the commission determines
313 appropriate, its wholesale loop unbundled network element
314 customers. At the end of the collection period, the commission
315 shall verify that the collected amount does not exceed the
316 amount authorized by the order. If collections exceed the
317 ordered amount, the commission shall order the company to refund
318 the excess.

319 7. In order to qualify for filing a petition under this
320 paragraph, a company with 1 million or more access lines, but
321 fewer than 3 million access lines, must have tropical-system-
322 related costs and expenses exceeding \$1.5 million, and a company
323 with 3 million or more access lines must have tropical-system-
324 related costs and expenses of \$5 million or more. A company with
325 fewer than 1 million access lines is not required to meet a
326 minimum damage threshold in order to qualify to file a petition
327 under this paragraph.

328 8. A company may file only one petition for storm recovery
329 in any 12-month period for the previous storm season, but the
330 application may cover damages from more than one named tropical
331 system.

332

333 This paragraph is not intended to adversely affect the
 334 commission's consideration of any petition for an increase in
 335 basic rates to recover costs related to storm damage which was
 336 filed before the effective date of this act.

337 Section 8. Paragraph (a) of subsection (3) of section
 338 364.10, Florida Statutes, is amended to read:

339 364.10 Undue advantage to person or locality prohibited;
 340 Lifeline service.--

341 (3)(a) Effective September 1, 2003, any local exchange
 342 telecommunications company authorized by the commission to
 343 reduce its switched network access rate pursuant to s. 364.164
 344 shall have tariffed and shall provide Lifeline service to any
 345 otherwise eligible customer or potential customer who meets an
 346 income eligibility test at 135 ~~125~~ percent or less of the
 347 federal poverty income guidelines for Lifeline customers. Such a
 348 test for eligibility must augment, rather than replace, the
 349 eligibility standards established by federal law and based on
 350 participation in certain low-income assistance programs. Each
 351 intrastate interexchange telecommunications company shall,
 352 effective September 1, 2003, file a tariff providing at a
 353 minimum the intrastate interexchange telecommunications
 354 carrier's current Lifeline benefits and exemptions to Lifeline
 355 customers who meet the income eligibility test set forth in this
 356 subsection. The Office of Public Counsel shall certify and
 357 maintain claims submitted by a customer for eligibility under
 358 the income test authorized by this subsection.

359 Section 9. Paragraph (c) of subsection (1) of section
 360 364.335, Florida Statutes, is amended to read:

361 | 364.335 Application for certificate.--

362 | (1) Each applicant for a certificate shall:

363 | (c) File the application fee required by the commission in
364 | an amount not to exceed \$500 ~~\$250~~. Such fees shall be deposited
365 | in accordance with s. 350.113.

366 | Section 10. Section 364.336, Florida Statutes, is amended
367 | to read:

368 | 364.336 Regulatory assessment fees.--Notwithstanding any
369 | provisions of law to the contrary, each telecommunications
370 | company licensed or operating under this chapter, for any part
371 | of the preceding 6-month period, shall pay to the commission,
372 | within 30 days following the end of each 6-month period, a fee
373 | that may not exceed 0.25 percent annually of its gross operating
374 | revenues derived from intrastate business, except, for purposes
375 | of this section and the fee specified in s. 350.113(3), any
376 | amount paid to another telecommunications company for the use of
377 | any telecommunications network shall be deducted from the gross
378 | operating revenue for purposes of computing the fee due. The
379 | commission shall by rule assess a minimum fee in an amount up to
380 | \$1,000. The minimum amount may be different depending on the
381 | type of service provided by the telecommunications company and
382 | shall, to the extent practicable, be related to the cost of
383 | regulating such type of company. Differences, if any, between
384 | the amount paid in any 6-month period and the amount actually
385 | determined by the commission to be due shall, upon motion by the
386 | commission, be immediately paid or refunded. Fees under this
387 | section may not be less than \$50 annually. Such fees shall be
388 | deposited in accordance with s. 350.113. The commission may by

389 rule establish criteria for payment of the regulatory assessment
390 fee on an annual basis rather than on a semiannual basis.

391 Section 11. Section 364.502, Florida Statutes, is
392 repealed.

393 Section 12. Subsection (6) of section 196.012, Florida
394 Statutes, is amended to read:

395 196.012 Definitions.--For the purpose of this chapter, the
396 following terms are defined as follows, except where the context
397 clearly indicates otherwise:

398 (6) Governmental, municipal, or public purpose or function
399 shall be deemed to be served or performed when the lessee under
400 any leasehold interest created in property of the United States,
401 the state or any of its political subdivisions, or any
402 municipality, agency, special district, authority, or other
403 public body corporate of the state is demonstrated to perform a
404 function or serve a governmental purpose which could properly be
405 performed or served by an appropriate governmental unit or which
406 is demonstrated to perform a function or serve a purpose which
407 would otherwise be a valid subject for the allocation of public
408 funds. For purposes of the preceding sentence, an activity
409 undertaken by a lessee which is permitted under the terms of its
410 lease of real property designated as an aviation area on an
411 airport layout plan which has been approved by the Federal
412 Aviation Administration and which real property is used for the
413 administration, operation, business offices and activities
414 related specifically thereto in connection with the conduct of
415 an aircraft full service fixed base operation which provides
416 goods and services to the general aviation public in the

417 | promotion of air commerce shall be deemed an activity which
418 | serves a governmental, municipal, or public purpose or function.
419 | Any activity undertaken by a lessee which is permitted under the
420 | terms of its lease of real property designated as a public
421 | airport as defined in s. 332.004(14) by municipalities,
422 | agencies, special districts, authorities, or other public bodies
423 | corporate and public bodies politic of the state, a spaceport as
424 | defined in s. 331.303(19), or which is located in a deepwater
425 | port identified in s. 403.021(9)(b) and owned by one of the
426 | foregoing governmental units, subject to a leasehold or other
427 | possessory interest of a nongovernmental lessee that is deemed
428 | to perform an aviation, airport, aerospace, maritime, or port
429 | purpose or operation shall be deemed an activity that serves a
430 | governmental, municipal, or public purpose. The use by a lessee,
431 | licensee, or management company of real property or a portion
432 | thereof as a convention center, visitor center, sports facility
433 | with permanent seating, concert hall, arena, stadium, park, or
434 | beach is deemed a use that serves a governmental, municipal, or
435 | public purpose or function when access to the property is open
436 | to the general public with or without a charge for admission. If
437 | property deeded to a municipality by the United States is
438 | subject to a requirement that the Federal Government, through a
439 | schedule established by the Secretary of the Interior, determine
440 | that the property is being maintained for public historic
441 | preservation, park, or recreational purposes and if those
442 | conditions are not met the property will revert back to the
443 | Federal Government, then such property shall be deemed to serve
444 | a municipal or public purpose. The term "governmental purpose"

445 | also includes a direct use of property on federal lands in
446 | connection with the Federal Government's Space Exploration
447 | Program or spaceport activities as defined in s. 212.02(22).
448 | Real property and tangible personal property owned by the
449 | Federal Government or the Florida Space Authority and used for
450 | defense and space exploration purposes or which is put to a use
451 | in support thereof shall be deemed to perform an essential
452 | national governmental purpose and shall be exempt. "Owned by the
453 | lessee" as used in this chapter does not include personal
454 | property, buildings, or other real property improvements used
455 | for the administration, operation, business offices and
456 | activities related specifically thereto in connection with the
457 | conduct of an aircraft full service fixed based operation which
458 | provides goods and services to the general aviation public in
459 | the promotion of air commerce provided that the real property is
460 | designated as an aviation area on an airport layout plan
461 | approved by the Federal Aviation Administration. For purposes of
462 | determination of "ownership," buildings and other real property
463 | improvements which will revert to the airport authority or other
464 | governmental unit upon expiration of the term of the lease shall
465 | be deemed "owned" by the governmental unit and not the lessee.
466 | Providing two-way telecommunications services to the public for
467 | hire by the use of a telecommunications facility, as defined in
468 | s. 364.02(15) ~~s. 364.02(14)~~, and for which a certificate is
469 | required under chapter 364 does not constitute an exempt use for
470 | purposes of s. 196.199, unless the telecommunications services
471 | are provided by the operator of a public-use airport, as defined
472 | in s. 332.004, for the operator's provision of

473 telecommunications services for the airport or its tenants,
474 concessionaires, or licensees, or unless the telecommunications
475 services are provided by a public hospital. However, property
476 that is being used to provide such telecommunications services
477 on or before October 1, 1997, shall remain exempt, but such
478 exemption expires October 1, 2004.

479 Section 13. Paragraph (b) of subsection (1) of section
480 199.183, Florida Statutes, is amended to read:

481 199.183 Taxpayers exempt from annual and nonrecurring
482 taxes.--

483 (1) Intangible personal property owned by this state or
484 any of its political subdivisions or municipalities shall be
485 exempt from taxation under this chapter. This exemption does not
486 apply to:

487 (b) Property related to the provision of two-way
488 telecommunications services to the public for hire by the use of
489 a telecommunications facility, as defined in s. 364.02(15) ~~s.~~
490 ~~364.02(14)~~, and for which a certificate is required under
491 chapter 364, when such service is provided by any county,
492 municipality, or other political subdivision of the state. Any
493 immunity of any political subdivision of the state or other
494 entity of local government from taxation of the property used to
495 provide telecommunication services that is taxed as a result of
496 this paragraph is hereby waived. However, intangible personal
497 property related to the provision of such telecommunications
498 services provided by the operator of a public-use airport, as
499 defined in s. 332.004, for the operator's provision of
500 telecommunications services for the airport or its tenants,

501 concessionaires, or licensees, and intangible personal property
502 related to the provision of such telecommunications services
503 provided by a public hospital, are exempt from taxation under
504 this chapter.

505 Section 14. Subsection (6) of section 212.08, Florida
506 Statutes, is amended to read:

507 212.08 Sales, rental, use, consumption, distribution, and
508 storage tax; specified exemptions.--The sale at retail, the
509 rental, the use, the consumption, the distribution, and the
510 storage to be used or consumed in this state of the following
511 are hereby specifically exempt from the tax imposed by this
512 chapter.

513 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are also
514 exempt from the tax imposed by this chapter sales made to the
515 United States Government, a state, or any county, municipality,
516 or political subdivision of a state when payment is made
517 directly to the dealer by the governmental entity. This
518 exemption shall not inure to any transaction otherwise taxable
519 under this chapter when payment is made by a government employee
520 by any means, including, but not limited to, cash, check, or
521 credit card when that employee is subsequently reimbursed by the
522 governmental entity. This exemption does not include sales of
523 tangible personal property made to contractors employed either
524 directly or as agents of any such government or political
525 subdivision thereof when such tangible personal property goes
526 into or becomes a part of public works owned by such government
527 or political subdivision. A determination whether a particular
528 transaction is properly characterized as an exempt sale to a

529 | government entity or a taxable sale to a contractor shall be
530 | based on the substance of the transaction rather than the form
531 | in which the transaction is cast. The department shall adopt
532 | rules that give special consideration to factors that govern the
533 | status of the tangible personal property before its affixation
534 | to real property. In developing these rules, assumption of the
535 | risk of damage or loss is of paramount consideration in the
536 | determination. This exemption does not include sales, rental,
537 | use, consumption, or storage for use in any political
538 | subdivision or municipality in this state of machines and
539 | equipment and parts and accessories therefor used in the
540 | generation, transmission, or distribution of electrical energy
541 | by systems owned and operated by a political subdivision in this
542 | state for transmission or distribution expansion. Likewise
543 | exempt are charges for services rendered by radio and television
544 | stations, including line charges, talent fees, or license fees
545 | and charges for films, videotapes, and transcriptions used in
546 | producing radio or television broadcasts. The exemption provided
547 | in this subsection does not include sales, rental, use,
548 | consumption, or storage for use in any political subdivision or
549 | municipality in this state of machines and equipment and parts
550 | and accessories therefor used in providing two-way
551 | telecommunications services to the public for hire by the use of
552 | a telecommunications facility, as defined in s. 364.02(15) ~~s.~~
553 | ~~364.02(14)~~, and for which a certificate is required under
554 | chapter 364, which facility is owned and operated by any county,
555 | municipality, or other political subdivision of the state. Any
556 | immunity of any political subdivision of the state or other

557 | entity of local government from taxation of the property used to
 558 | provide telecommunication services that is taxed as a result of
 559 | this section is hereby waived. However, the exemption provided
 560 | in this subsection includes transactions taxable under this
 561 | chapter which are for use by the operator of a public-use
 562 | airport, as defined in s. 332.004, in providing such
 563 | telecommunications services for the airport or its tenants,
 564 | concessionaires, or licensees, or which are for use by a public
 565 | hospital for the provision of such telecommunications services.

566 | Section 15. Subsection (8) of section 290.007, Florida
 567 | Statutes, is amended to read:

568 | 290.007 State incentives available in enterprise
 569 | zones.--The following incentives are provided by the state to
 570 | encourage the revitalization of enterprise zones:

571 | (8) Notwithstanding any law to the contrary, the Public
 572 | Service Commission may allow public utilities and
 573 | telecommunications companies to grant discounts of up to 50
 574 | percent on tariffed rates for services to small businesses
 575 | located in an enterprise zone designated pursuant to s.
 576 | 290.0065. Such discounts may be granted for a period not to
 577 | exceed 5 years. For purposes of this subsection, the term
 578 | "public utility" has the same meaning as in s. 366.02(1) and the
 579 | term "telecommunications company" has the same meaning as in s.
 580 | 364.02(14) ~~s. 364.02(13)~~.

581 | Section 16. Subsection (3) of section 350.0605, Florida
 582 | Statutes, is amended to read:

583 | 350.0605 Former commissioners and employees;
 584 | representation of clients before commission.--

585 (3) For a period of 2 years following termination of
 586 service on the commission, a former member may not accept
 587 employment by or compensation from a business entity which,
 588 directly or indirectly, owns or controls a public utility
 589 regulated by the commission, from a public utility regulated by
 590 the commission, from a business entity which, directly or
 591 indirectly, is an affiliate or subsidiary of a public utility
 592 regulated by the commission or is an actual business competitor
 593 of a local exchange company or public utility regulated by the
 594 commission and is otherwise exempt from regulation by the
 595 commission under ss. 364.02(14) ~~364.02(13)~~ and 366.02(1), or
 596 from a business entity or trade association that has been a
 597 party to a commission proceeding within the 2 years preceding
 598 the member's termination of service on the commission. This
 599 subsection applies only to members of the Florida Public Service
 600 Commission who are appointed or reappointed after May 10, 1993.

601 Section 17. Subsection (4) of section 364.602, Florida
 602 Statutes, is amended to read:

603 364.602 Definitions.--For purposes of this part:

604 (4) "Originating party" means any person, firm,
 605 corporation, or other entity, including a telecommunications
 606 company or a billing clearinghouse, that provides any
 607 telecommunications service or information service to a customer
 608 or bills a customer through a billing party, except the term
 609 "originating party" does not include any entity specifically
 610 exempted from the definition of "telecommunications company" as
 611 provided in s. 364.02(14) ~~s. 364.02(13)~~.

612 Section 18. Subsection (5) of section 489.103, Florida
 613 Statutes, is amended to read:

614 489.103 Exemptions.--This part does not apply to:

615 (5) Public utilities, including special gas districts as
 616 defined in chapter 189, telecommunications companies as defined
 617 in s. 364.02(14) ~~s. 364.02(13)~~, and natural gas transmission
 618 companies as defined in s. 368.103(4), on construction,
 619 maintenance, and development work performed by their employees,
 620 which work, including, but not limited to, work on bridges,
 621 roads, streets, highways, or railroads, is incidental to their
 622 business. The board shall define, by rule, the term "incidental
 623 to their business" for purposes of this subsection.

624 Section 19. Nothing in this act shall be construed to
 625 limit the rights of local government or the duties of providers
 626 of cable service to comply with any and all requirements of
 627 federal, state, or local law, including, but not limited to, 47
 628 U.S.C. 541 and ss. 166.046 and 337.401, Florida Statutes.

629 Section 20. Except as otherwise provided herein, this act
 630 shall take effect July 1, 2005.