

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

.
.
.



1 Representative Murzin offered the following:

2

3 **Amendment to Senate Amendment (552744) (with title**
4 **amendment)**

5 On page 47, between lines 14 and 15, insert:

6 Section 35. Effective upon this act becoming a law, and
7 operating retroactively to December 31, 2004, subsection (2) of
8 section 202.16, Florida Statutes, is amended to read:

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

Amendment No. (for drafter's use only)

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

32 (b)1. Any dealer who makes a sale for resale shall
33 document the exempt nature of the transaction, as established by
34 rules adopted by the department, by retaining a copy of the
35 purchaser's initial or annual resale certificate issued pursuant
36 to s. 202.17(6). In lieu of maintaining a copy of the
37 certificate, a dealer may document, prior to the time of sale,
38 an authorization number, provided telephonically or
39 electronically by the department, or by such other means
40 established by rule of the department. The dealer may rely on an
41 initial or annual resale certificate issued pursuant to s.
42 202.17(6), valid at the time of receipt from the purchaser,
43 without seeking additional annual resale certificates from such
44 purchaser, if the dealer makes recurring sales to the purchaser

Amendment No. (for drafter's use only)

45 in the normal course of business on a continual basis. For
46 purposes of this paragraph, the term "recurring sales to a
47 purchaser in the normal course of business" means a sale in
48 which the dealer extends credit to the purchaser and records the
49 debt as an account receivable, or in which the dealer sells to a
50 purchaser who has an established cash account, similar to an
51 open credit account. For purposes of this paragraph, purchases
52 are made from a selling dealer on a continual basis if the
53 selling dealer makes, in the normal course of business, sales to
54 the purchaser no less frequently than once in every 12-month
55 period.

56 2. A dealer may, through the informal protest process
57 provided for in s. 213.21 and the rules of the department,
58 provide the department with evidence of the exempt status of a
59 sale. Exemption certificates executed by entities that were
60 exempt at the time of sale, resale certificates provided by
61 purchasers who were active dealers at the time of sale, and
62 verification by the department of a purchaser's active dealer
63 status at the time of sale in lieu of a resale certificate shall
64 be accepted by the department when submitted during the protest
65 period but may not be accepted in any proceeding under chapter
66 120 or any circuit court action instituted under chapter 72.

67 Section 36. Effective January 1, 2006, the Department of
68 Revenue shall establish:

69 (1) A toll-free number for the verification of valid
70 registration numbers and resale certificates under s.
71 202.16(2)(b), Florida Statutes. The system must be adequate to

Amendment No. (for drafter's use only)

72 guarantee a low busy rate, must respond to keypad inquiries, and
73 must provide data that is updated daily.

74 (2) A system for receiving information from dealers
75 regarding certificate numbers under s. 202.16(2)(b), Florida
76 Statutes, of dealers who are seeking to make purchases for
77 resale. The department shall provide such dealers, free of
78 charge, with verification of those numbers that are canceled or
79 invalid.

80 Section 37. Paragraph (a) of subsection (3) of section
81 202.19, Florida Statutes, is amended to read:

82 202.19 Authorization to impose local communications
83 services tax.--

84 (3)(a) The tax authorized under this section includes and
85 is in lieu of any fee or other consideration, including, but not
86 limited to, application fees, transfer fees, renewal fees, or
87 claims for related costs, to which the municipality or county is
88 otherwise entitled for granting permission to dealers of
89 communications services, including, but not limited to,
90 providers of cable television services, as authorized in 47
91 U.S.C. s. 542, to use or occupy its roads or rights-of-way for
92 the placement, construction, and maintenance of poles, wires,
93 and other fixtures used in the provision of communications
94 services.

95 Section 38. The amendments to s. 202.19(3)(a), Florida
96 Statutes, contained in this act are remedial in nature and
97 intended to clarify the law in effect on October 1, 2001, but do
98 not grant any right to a refund of any fees or charges paid
99 prior to July 1, 2005.

Amendment No. (for drafter's use only)

100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120

===== T I T L E A M E N D M E N T =====

On page 51, line 14, remove all of said line and insert:
amending s. 202.16, F.S.; requiring dealers to document
exempt sales of communications services for resale;
providing requirements; providing a definition; providing
construction; providing for dealer provision of evidence
of the exempt status of certain sales through an informal
protest process; requiring the Department of Revenue to
accept certain evidence during the protest period;
providing limitations; providing for retroactive
application; requiring the department to establish a toll-
free number for certain registration and resale
certificate verification purposes; providing requirements;
requiring the department to establish a system for
receiving certain information relating to certificate
numbers of dealers making purchases for resale; providing
requirements; amending s. 202.19, F.S.; clarifying a
characterization of the local communications services tax
as including certain fees and being in lieu of such fees;
providing for application; providing effective dates.