

Bill No. CS for SB 2032

Barcode 164022

CHAMBER ACTION

Senate

House

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Senators Atwater and Haridopolos moved the following amendment

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Senate Amendment (with title amendment)

On page 11, between lines 3 and 4,

insert:

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

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

(2)(a) A sale of communications services that are used as a component part of or integrated into a communications service or prepaid calling arrangement for resale, including,

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1 but not limited to, carrier-access charges, interconnection
2 charges paid by providers of mobile communication services or
3 other communication services, charges paid by cable service
4 providers for the transmission of video or other programming
5 by another dealer of communications services, charges for the
6 sale of unbundled network elements, and any other intercompany
7 charges for the use of facilities for providing communications
8 services for resale, must be made in compliance with the rules
9 of the department. Any person who makes a sale for resale
10 which is not in compliance with these rules is liable for any
11 tax, penalty, and interest due for failing to comply, to be
12 calculated pursuant to s. 202.28(2)(a).

13 (b)1. Any dealer who makes a sale for resale shall
14 document the exempt nature of the transaction, as established
15 by rules adopted by the department, by retaining a copy of the
16 purchaser's initial or annual resale certificate issued
17 pursuant to s. 202.17(6). In lieu of maintaining a copy of the
18 certificate, a dealer may document, prior to the time of sale,
19 an authorization number, provided telephonically or
20 electronically by the department or by such other means
21 established by rule of the department. The dealer may rely on
22 an initial or annual resale certificate issued pursuant to s.
23 202.17(6), valid at the time of receipt from the purchaser,
24 without seeking additional annual resale certificates from
25 such purchaser, if the dealer makes recurring sales to the
26 purchaser in the normal course of business on a continual
27 basis. For purposes of this paragraph, the term "recurring
28 sales to a purchaser in the normal course of business" means a
29 sale in which the dealer extends credit to the purchaser and
30 records the debt as an account receivable, or in which the
31 dealer sells to a purchaser who has an established cash

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1 account, similar to an open credit account. For purposes of
 2 this paragraph, purchases are made from a selling dealer on a
 3 continual basis if the selling dealer makes, in the normal
 4 course of business, sales to the purchaser no less frequently
 5 than once in every 12-month period.

6 2. A dealer may, through the informal protest process
 7 provided for in s. 213.21 and the rules of the department,
 8 provide the department with evidence of the exempt status of a
 9 sale. Exemption certificates executed by entities that were
 10 exempt at the time of sale, resale certificates provided by
 11 purchasers who were active dealers at the time of sale, and
 12 verification by the department of a purchaser's active dealer
 13 status at the time of sale in lieu of a resale certificate
 14 shall be accepted by the department when submitted during the
 15 protest period but may not be accepted in any proceeding under
 16 chapter 120 or any circuit court action instituted under
 17 chapter 72.

18
19 (Redesignate subsequent sections.)

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21
22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 On page 1, line 27, after the semicolon,

25
26 insert:

27 amending s. 202.16, F.S.; requiring dealers to
 28 document exempt sales for resale; providing
 29 requirements; providing a definition; providing
 30 construction; providing for dealer provision of
 31 evidence of the exempt status of certain sales

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1 through an informal protest process; requiring
2 the Department of Revenue to accept certain
3 evidence during the protest period; providing
4 limitations; providing for retroactive
5 application;

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