

Bill No. CS for SB 2070, 1st Eng.

Barcode 981638

CHAMBER ACTION

Senate

House

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Senator Haridopolos moved the following amendment:

Senate Amendment (with title amendment)

On page 2, lines 3-15, delete those lines

and insert:

Section 1. Sections (2) through (15) of section 202.11, Florida Statutes, are renumbered as subsections (1) through (14), respectively, subsections (17) through (25) of that section are renumbered as subsections (15) through (23), respectively, and present subsections (1) and (16) of that 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~~

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1 ~~must be included within the actual cost of operating the~~
2 ~~substitute communications system.~~

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

10 Section 2. Paragraphs (c), (d), and (e) of subsection
11 (1) of section 202.12, Florida Statutes, are redesignated as
12 paragraphs (b), (c), and (d), respectively, and present
13 paragraph (b) of subsection (1) and subsection (2) of that
14 section are amended to read:

15 202.12 Sales of communications services.--The
16 Legislature finds that every person who engages in the
17 business of selling communications services at retail in this
18 state is exercising a taxable privilege. It is the intent of
19 the Legislature that the tax imposed by chapter 203 be
20 administered as provided in this chapter.

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

24 ~~(b) At the rate set forth in paragraph (a) on the~~
25 ~~actual cost of operating a substitute communications system,~~
26 ~~to be paid in accordance with s. 202.15. This paragraph does~~
27 ~~not apply to the use by any dealer of his or her own~~
28 ~~communications system to conduct a business of providing~~
29 ~~communications services or any communications system operated~~
30 ~~by a county, a municipality, the state, or any political~~
31 ~~subdivision of the state. The gross receipts tax imposed by~~

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1 ~~chapter 203 shall be applied to the same costs, and remitted~~
2 ~~with the tax imposed by this paragraph.~~

3 (2) A dealer of taxable communications services shall
4 bill, collect, and remit the taxes on communications services
5 imposed pursuant to chapter 203 and this section at a combined
6 rate that is the sum of the rate of tax on communications
7 services prescribed in chapter 203 and the applicable rate of
8 tax prescribed in this section. ~~Each dealer subject to the tax~~
9 ~~provided in paragraph (1)(b) shall also remit the taxes~~
10 ~~imposed pursuant to chapter 203 and this section on a combined~~
11 ~~basis.~~ However, a dealer shall, in reporting each remittance
12 to the department, identify the portion thereof which consists
13 of taxes remitted pursuant to chapter 203. Return forms
14 prescribed by the department shall facilitate such reporting.

15 Section 3. Paragraph (a) of subsection (1) of section
16 202.16, Florida Statutes, is amended to read:

17 202.16 Payment.--The taxes imposed or administered
18 under this chapter and chapter 203 shall be collected from all
19 dealers of taxable communications services on the sale at
20 retail in this state of communications services taxable under
21 this chapter and chapter 203. The full amount of the taxes on
22 a credit sale, installment sale, or sale made on any kind of
23 deferred payment plan is due at the moment of the transaction
24 in the same manner as a cash sale.

25 (1)(a) ~~Except as otherwise provided in ss.~~
26 ~~202.12(1)(b) and 202.15,~~ The taxes collected under this
27 chapter and chapter 203 shall be paid by the purchaser of the
28 communications service and shall be collected from such person
29 by the dealer of communications services.

30 Section 4. Subsection (6) of section 202.17, Florida
31 Statutes, is amended to read:

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1 202.17 Registration.--

2 (6) In addition to the certificate of registration,
3 the department shall provide to each newly registered dealer
4 an initial resale certificate that is valid for the remainder
5 of the period of issuance. The department shall provide to
6 each active dealer, ~~except persons registered pursuant to s.~~
7 ~~202.15,~~ an annual resale certificate. As used in this section,
8 the term "active dealer" means a person who is registered with
9 the department and who is required to file a return at least
10 once during each applicable reporting period.

11 Section 5. Subsections (1) and (2) of section 202.18,
12 Florida Statutes, are amended to read:

13 202.18 Allocation and disposition of tax
14 proceeds.--The proceeds of the communications services taxes
15 remitted under this chapter shall be treated as follows:

16 (1) The proceeds of the taxes remitted under s.
17 202.12(1)(a) ~~and (b)~~ shall be divided as follows:

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

22 (b) The remaining portion shall be distributed
23 according to s. 212.20(6).

24 (2) The proceeds of the taxes remitted under s.
25 202.12(1)(b)(~~c~~) shall be divided as follows:

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

30 (b) Sixty-three percent of the remainder shall be
31 allocated to the state and distributed pursuant to s.

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1 212.20(6), except that the proceeds allocated pursuant to s.
 2 212.20(6)(d)3. shall be prorated to the participating counties
 3 in the same proportion as that month's collection of the taxes
 4 and fees imposed pursuant to chapter 212 and paragraph (1)(b).

5 (c)1. During each calendar year, the remaining portion
 6 of such proceeds shall be transferred to the Local Government
 7 Half-cent Sales Tax Clearing Trust Fund and shall be allocated
 8 in the same proportion as the allocation of total receipts of
 9 the half-cent sales tax under s. 218.61 and the emergency
 10 distribution under s. 218.65 in the prior state fiscal year.

11 2. The proportion of the proceeds allocated based on
 12 the emergency distribution under s. 218.65 shall be
 13 distributed pursuant to s. 218.65.

14 3. In each calendar year, the proportion of the
 15 proceeds allocated based on the half-cent sales tax under s.
 16 218.61 shall be allocated to each county in the same
 17 proportion as the county's percentage of total sales tax
 18 allocation for the prior state fiscal year and distributed
 19 pursuant to s. 218.62.

20 4. The department shall distribute the appropriate
 21 amount to each municipality and county each month at the same
 22 time that local communications services taxes are distributed
 23 pursuant to subsection (3).

24 Section 6. Subsections (8) through (12) of section
 25 202.19, Florida Statutes, are renumbered as subsections (7)
 26 through (11), respectively, and present subsection (7) of that
 27 section is amended to read:

28 202.19 Authorization to impose local communications
 29 services tax.--

30 ~~(7) Any tax imposed by a municipality, school board,~~
 31 ~~or county under this section also applies to the actual cost~~

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1 ~~of operating a substitute communications system, to be paid in~~
2 ~~accordance with s. 202.15. This subsection does not apply to~~
3 ~~the use by any provider of its own communications system to~~
4 ~~conduct a business of providing communications services or to~~
5 ~~the use of any communications system operated by a county, a~~
6 ~~municipality, the state, or any political subdivision of the~~
7 ~~state.~~

8 Section 7. Paragraph (a) of subsection (1) of section
9 203.01, Florida Statutes, is amended to read:

10 203.01 Tax on gross receipts for utility and
11 communications services.--

12 (1)(a)1. Every person that receives payment for any
13 utility service shall report by the last day of each month to
14 the Department of Revenue, under oath of the secretary or some
15 other officer of such person, the total amount of gross
16 receipts derived from business done within this state, or
17 between points within this state, for the preceding month and,
18 at the same time, shall pay into the State Treasury an amount
19 equal to a percentage of such gross receipts at the rate set
20 forth in paragraph (b). Such collections shall be certified by
21 the Chief Financial Officer upon the request of the State
22 Board of Education.

23 2. A tax is levied on communications services as
24 defined in s. 202.11(2)(3). Such tax shall be applied to the
25 same services and transactions as are subject to taxation
26 under chapter 202, and to communications services that are
27 subject to the exemption provided in s. 202.125(1). Such tax
28 shall be applied to the sales price of communications services
29 when sold at retail ~~and to the actual cost of operating~~
30 ~~substitute communications systems~~, as such terms are defined
31 in s. 202.11, shall be due and payable at the same time as the

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1 taxes imposed pursuant to chapter 202, and shall be
2 administered and collected pursuant to the provisions of
3 chapter 202.

4 Section 8. Section 624.105, Florida Statutes, is
5 amended to read:

6 624.105 Waiver of customer liability.--Any regulated
7 company as defined in s. 350.111, any electric utility as
8 defined in s. 366.02(2), any utility as defined in s.
9 367.021(12) or s. 367.022(2) and (7), and any provider of
10 communications services as defined in s. 202.11(2)~~(3)~~ may
11 charge for and include an optional waiver of liability
12 provision in their customer contracts under which the entity
13 agrees to waive all or a portion of the customer's liability
14 for service from the entity for a defined period in the event
15 of the customer's call to active military service, death,
16 disability, involuntary unemployment, qualification for family
17 leave, or similar qualifying event or condition. Such
18 provisions may not be effective in the customer's contract
19 with the entity unless affirmatively elected by the customer.
20 No such provision shall constitute insurance so long as the
21 provision is a contract between the entity and its customer.

22 Section 9. The retroactive application of the
23 provisions of this act are remedial in nature and shall not be
24 construed to create a right to a refund or to require a refund
25 by any governmental entity of any tax, penalty, or interest
26 remitted to the Department of Revenue on substitute
27 communications systems prior to the effective date of this
28 act.

29 Section 10. Section 202.15, Florida Statutes, is
30 repealed.

31 Section 11. Sections 1 through 10 of this act shall

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1 take effect upon becoming a law and shall apply retroactively
2 to October 1, 2001.

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4 (Redesignate subsequent sections.)

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

8 And the title is amended as follows:

9 On page 1, lines 3-6, delete those lines

10
11 and insert:

12 amending s. 202.12, F.S.; deleting a provision
13 relating to the manner in which the tax on
14 gross receipts for communications services is
15 applied to a substitute communications system;
16 amending ss. 202.16, 202.17, and 202.18, F.S.;
17 correcting cross-references; amending s.
18 202.19, F.S.; deleting a provision authorizing
19 the imposition of a local communications
20 services tax on substitute communications
21 systems; amending s. 203.01, F.S.; deleting a
22 provision authorizing the imposition of a gross
23 receipts tax on actual costs of operating
24 substitute communications systems; amending s.
25 624.105, F.S.; correcting a cross-reference;
26 specifying that retroactive operation is
27 remedial and does not create any right to or
28 require any refunds; repealing s. 202.15, F.S.,
29 relating to special rules for users of
30 substitute communications systems; providing
31 for retroactive operation; providing an

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1 effective date; creating the Communications
2 Service
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