

Bill No. SB 2482

Barcode 245356

CHAMBER ACTION

Senate

House

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The Committee on Finance and Tax (Haridopolos) recommended the following amendment:

Senate Amendment (with title amendment)

On page 83, between lines 20 and 21,

insert:

Section 42. Effective January 1, 2008, 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, but not limited to, carrier-access charges, interconnection

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

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

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

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

17 Section 43. Effective January 1, 2008, the Department
 18 of Revenue shall establish a toll-free telephone number for
 19 the verification of valid dealer registration numbers and
 20 resale certificates issued under chapter 202, Florida
 21 Statutes. The system must be adequate to guarantee a low busy
 22 rate, must respond to keypad inquiries, and must provide data
 23 that is updated daily.

24 Section 44. Effective January 1, 2008, the Department
 25 of Revenue shall establish a system for receiving information
 26 from dealers regarding certificate numbers of purchasers who
 27 are seeking to make purchases for resale under chapter 202,
 28 Florida Statutes. The department shall provide such dealers,
 29 free of charge, with verification of those numbers that are
 30 canceled or invalid.

31 Section 45. Paragraph (a) of subsection (2) of section

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1 202.20, Florida Statutes, is amended to read:

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

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

22 2. If complete data are not available at the time of
23 determining whether the revenues received by a local
24 government from the local communications services tax imposed
25 under subsection (1) are less than the revenues received from
26 the replaced revenue sources for the corresponding 2000-2001
27 period, as set forth in subparagraph 1., the local government
28 shall use the best data available for the corresponding
29 2000-2001 period in making such determination. Complete data
30 shall be deemed available to all local governments after the
31 department audits, including the redistribution of local tax,

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1 dealers who account for no less than 80 percent of the amount
2 of communications services tax revenues received for fiscal
3 year 2005-2006.

4 3. The adjustment permitted under subparagraph 1. may
5 be made by emergency ordinance or resolution and may be made
6 notwithstanding the maximum rate established under s.
7 202.19(2) and notwithstanding any schedules or timeframes or
8 any other limitations contained in this chapter. Beginning
9 July 1, 2007, a local government may make such adjustment only
10 if the department or a dealer allocates or reallocates
11 revenues away from the local government. However, any such
12 adjustment shall be made no later than 6 months following the
13 date the department notifies the local governments in writing
14 that complete data is available. The emergency ordinance or
15 resolution shall specify an effective date for the adjusted
16 rate, which shall be no less than 60 days after the date of
17 adoption of the ordinance or resolution and shall be effective
18 with respect to taxable services included on bills that are
19 dated on the first day of a month subsequent to the expiration
20 of the 60-day period. At the end of 1 year following the
21 effective date of such adjusted rate, the local governing
22 authority shall, as soon as is consistent with s. 202.21,
23 reduce the rate by that portion of the emergency rate which
24 was necessary to recoup the amount of revenues not received
25 prior to the implementation of the emergency rate.

26 4. If, for the period October 1, 2001, through
27 September 30, 2002, the revenues received by a local
28 government from the local communications services tax
29 conversion rate established under subsection (1), adjusted
30 upward for the difference in rates between paragraphs (1)(a)
31 and (b) or any other rate adjustments or base changes, are

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1 above the threshold of 10 percent more than the revenues
2 received from the replaced revenue sources for the
3 corresponding 2000-2001 period plus reasonably anticipated
4 growth in such revenues over the preceding 1-year period,
5 based on the average growth of such revenues over the
6 immediately preceding 5-year period, the governing authority
7 must adjust the rate of the local communications services tax
8 to the extent necessary to reduce revenues to the threshold by
9 emergency ordinance or resolution within the timeframes
10 established in subparagraph 3. The foregoing rate adjustment
11 requirement shall not apply to a local government that adopts
12 a local communications services tax rate by resolution or
13 ordinance. If complete data are not available at the time of
14 determining whether the revenues exceed the threshold, the
15 local government shall use the best data available for the
16 corresponding 2000-2001 period in making such determination.
17 This subparagraph shall not be construed as establishing a
18 right of action for any person to enforce this subparagraph or
19 challenge a local government's implementation of this
20 subparagraph.

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22 (Redesignate subsequent sections.)

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

26 And the title is amended as follows:

27 On page 7, line 1, after the semicolon,

28

29 insert:

30 amending s. 202.16, F.S.; requiring dealers to

31 document exempt sales for resale; providing

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1 requirements and procedures; providing a
2 definition; providing construction; providing
3 for dealer provision of evidence of the exempt
4 status of certain sales through an informal
5 protest process; requiring the Department of
6 Revenue to accept certain evidence during the
7 protest period; providing limitations;
8 requiring the department to establish a
9 toll-free telephone number for the purpose of
10 verifying registration numbers and resale
11 certificates; requiring the department to
12 establish a system for receiving information
13 from dealers regarding certificate numbers;
14 amending s. 202.20, F.S.; limiting local
15 governmental authority to make certain rate
16 adjustments in the tax under certain
17 circumstances; providing for a determination of
18 completeness of certain data;

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