

1 A bill to be entitled

2 An act relating to the communications services tax;  
3 amending s. 202.12, F.S.; decreasing the rate of the tax;  
4 providing for application; amending s. 202.16, F.S.;  
5 requiring dealers to document exempt sales for resale;  
6 providing requirements and procedures; providing a  
7 definition; providing construction; providing for dealer  
8 provision of evidence of the exempt status of certain  
9 sales through an informal protest process; requiring the  
10 Department of Revenue to accept certain evidence during  
11 the protest period; providing limitations; requiring the  
12 department to establish a toll-free telephone number for  
13 the purpose of verifying registration numbers and resale  
14 certificates; requiring the department to establish a  
15 system for receiving information from dealers regarding  
16 certificate numbers; amending s. 202.18, F.S.; decreasing  
17 the percentage allocation of certain tax proceeds;  
18 amending s. 202.20, F.S.; limiting local governmental  
19 authority to make certain rate adjustments in the tax  
20 under certain circumstances; providing for a determination  
21 of completeness of certain data; providing effective  
22 dates.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Paragraphs (a) and (b) of subsection (1) of  
27 section 202.12, Florida Statutes, are amended to read:

28           202.12 Sales of communications services.--The Legislature  
 29 finds that every person who engages in the business of selling  
 30 communications services at retail in this state is exercising a  
 31 taxable privilege. It is the intent of the Legislature that the  
 32 tax imposed by chapter 203 be administered as provided in this  
 33 chapter.

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

37           (a) Except as otherwise provided in this subsection, at a  
 38 rate of 6.55 ~~6.8~~ percent applied to the sales price of the  
 39 communications service which:

- 40           1. Originates and terminates in this state, or
- 41           2. Originates or terminates in this state and is charged
- 42 to a service address in this state,

43  
 44 when sold at retail, computed on each taxable sale for the  
 45 purpose of remitting the tax due. The gross receipts tax imposed  
 46 by chapter 203 shall be collected on the same taxable  
 47 transactions and remitted with the tax imposed by this  
 48 paragraph. If no tax is imposed by this paragraph by reason of  
 49 s. 202.125(1), the tax imposed by chapter 203 shall nevertheless  
 50 be collected and remitted in the manner and at the time  
 51 prescribed for tax collections and remittances under this  
 52 chapter.

53           (b) At the rate of 10.55 ~~10.8~~ percent on the retail sales  
 54 price of any direct-to-home satellite service received in this  
 55 state. The proceeds of the tax imposed under this paragraph

56 shall be accounted for and distributed in accordance with s.  
57 202.18(2). The gross receipts tax imposed by chapter 203 shall  
58 be collected on the same taxable transactions and remitted with  
59 the tax imposed by this paragraph.

60 Section 2. The amendments to s. 202.12, Florida Statutes,  
61 by this act shall apply to bills for communications services  
62 dated on or after January 1, 2008.

63 Section 3. Effective January 1, 2008, subsection (2) of  
64 section 202.16, Florida Statutes, is amended to read:

65 202.16 Payment.--The taxes imposed or administered under  
66 this chapter and chapter 203 shall be collected from all dealers  
67 of taxable communications services on the sale at retail in this  
68 state of communications services taxable under this chapter and  
69 chapter 203. The full amount of the taxes on a credit sale,  
70 installment sale, or sale made on any kind of deferred payment  
71 plan is due at the moment of the transaction in the same manner  
72 as a cash sale.

73 (2) (a) A sale of communications services that are used as  
74 a component part of or integrated into a communications service  
75 or prepaid calling arrangement for resale, including, but not  
76 limited to, carrier-access charges, interconnection charges paid  
77 by providers of mobile communication services or other  
78 communication services, charges paid by cable service providers  
79 for the transmission of video or other programming by another  
80 dealer of communications services, charges for the sale of  
81 unbundled network elements, and any other intercompany charges  
82 for the use of facilities for providing communications services  
83 for resale, must be made in compliance with the rules of the

84 department. Any person who makes a sale for resale which is not  
85 in compliance with these rules is liable for any tax, penalty,  
86 and interest due for failing to comply, to be calculated  
87 pursuant to s. 202.28(2)(a).

88 (b)1. Any dealer who makes a sale for resale shall  
89 document the exempt nature of the transaction, as established by  
90 rules adopted by the department, by retaining a copy of the  
91 purchaser's initial or annual resale certificate issued pursuant  
92 to s. 202.17(6). In lieu of maintaining a copy of the  
93 certificate, a dealer may document, prior to the time of sale,  
94 an authorization number provided telephonically or  
95 electronically by the department or by such other means  
96 established by rule of the department. The dealer may rely on an  
97 initial or annual resale certificate issued pursuant to s.  
98 202.17(6), valid at the time of receipt from the purchaser,  
99 without seeking additional annual resale certificates from such  
100 purchaser, if the dealer makes recurring sales to the purchaser  
101 in the normal course of business on a continual basis. For  
102 purposes of this paragraph, the term "recurring sales to a  
103 purchaser in the normal course of business" means sales in which  
104 the dealer extends credit to the purchaser and records the debt  
105 as an account receivable, or in which the dealer sells to a  
106 purchaser who has an established cash account, similar to an  
107 open credit account. For purposes of this paragraph, purchases  
108 are made from a selling dealer on a continual basis if the  
109 selling dealer makes, in the normal course of business, sales to  
110 the purchaser no less frequently than once in every 12-month  
111 period.

112        2. A dealer may, through the informal conference  
113 procedures provided for in s. 213.21 and the rules of the  
114 department, provide the department with evidence of the exempt  
115 status of a sale. Exemption certificates executed by entities  
116 that were exempt at the time of sale, resale certificates  
117 provided by purchasers who were active dealers at the time of  
118 sale, and verification by the department of a purchaser's active  
119 dealer status at the time of sale in lieu of a resale  
120 certificate shall be accepted by the department when submitted  
121 during the protest period but may not be accepted in any  
122 proceeding under chapter 120 or any circuit court action  
123 instituted under chapter 72. Section 4. Effective January 1,  
124 2008, the Department of Revenue shall establish a toll-free  
125 telephone number for the verification of valid dealer  
126 registration numbers and resale certificates issued under  
127 chapter 202, Florida Statutes. The system must be adequate to  
128 guarantee a low busy rate, must respond to keypad inquiries, and  
129 must provide data that is updated daily.

130        Section 5. Effective January 1, 2008, the Department of  
131 Revenue shall establish a system for receiving information from  
132 dealers regarding certificate numbers of purchasers who are  
133 seeking to make purchases for resale under chapter 202, Florida  
134 Statutes. The department shall provide such dealers, free of  
135 charge, with verification numbers that are canceled or invalid.

136        Section 6. Effective January 1, 2008, paragraph (b) of  
137 subsection (2) of section 202.18, Florida Statutes, is amended  
138 to read:

139           202.18 Allocation and disposition of tax proceeds.--The  
 140 proceeds of the communications services taxes remitted under  
 141 this chapter shall be treated as follows:

142           (2) The proceeds of the taxes remitted under s.  
 143 202.12(1)(b) shall be divided as follows:

144           (b) Sixty-two and one-tenth ~~Sixty-three~~ percent of the  
 145 remainder shall be allocated to the state and distributed  
 146 pursuant to s. 212.20(6), except that the proceeds allocated  
 147 pursuant to s. 212.20(6)(d)3. shall be prorated to the  
 148 participating counties in the same proportion as that month's  
 149 collection of the taxes and fees imposed pursuant to chapter 212  
 150 and paragraph (1)(b).

151           Section 7. Paragraph (a) of subsection (2) of section  
 152 202.20, Florida Statutes, is amended to read:

153           202.20 Local communications services tax conversion  
 154 rates.--

155           (2)(a)1. With respect to any local taxing jurisdiction,  
 156 if, for the periods ending December 31, 2001; March 31, 2002;  
 157 June 30, 2002; or September 30, 2002, the revenues received by  
 158 that local government from the local communications services tax  
 159 imposed under subsection (1) are less than the revenues received  
 160 from the replaced revenue sources for the corresponding 2000-  
 161 2001 period; plus reasonably anticipated growth in such revenues  
 162 over the preceding 1-year period, based on the average growth of  
 163 such revenues over the immediately preceding 5-year period; plus  
 164 an amount representing the revenues from the replaced revenue  
 165 sources for the 1-month period that the local taxing  
 166 jurisdiction was required to forego, the governing authority may

CS/HB 567

2007

167 | adjust the rate of the local communications services tax upward  
168 | to the extent necessary to generate the entire shortfall in  
169 | revenues within 1 year after the rate adjustment and by an  
170 | amount necessary to generate the expected amount of revenue on  
171 | an ongoing basis.

172 |         2. If complete data are not available at the time of  
173 | determining whether the revenues received by a local government  
174 | from the local communications services tax imposed under  
175 | subsection (1) are less than the revenues received from the  
176 | replaced revenue sources for the corresponding 2000-2001 period,  
177 | as set forth in subparagraph 1., the local government shall use  
178 | the best data available for the corresponding 2000-2001 period  
179 | in making such determination. Complete data shall be deemed  
180 | available to all local governments after the department  
181 | completes audits, including the redistribution of local tax, of  
182 | dealers who account for no less than 80 percent of the amount of  
183 | communications services tax revenues received for fiscal year  
184 | 2005-2006.

185 |         3. The adjustment permitted under subparagraph 1. may be  
186 | made by emergency ordinance or resolution and may be made  
187 | notwithstanding the maximum rate established under s. 202.19(2)  
188 | and notwithstanding any schedules or timeframes or any other  
189 | limitations contained in this chapter. Beginning July 1, 2007, a  
190 | local government may make such adjustment only if the department  
191 | or a dealer allocates or reallocates revenues away from the  
192 | local government. However, any such adjustment shall be made no  
193 | later than 6 months following the date the department notifies  
194 | the local governments in writing that complete data is

195 available. The emergency ordinance or resolution shall specify  
196 an effective date for the adjusted rate, which shall be no less  
197 than 60 days after the date of adoption of the ordinance or  
198 resolution and shall be effective with respect to taxable  
199 services included on bills that are dated on the first day of a  
200 month subsequent to the expiration of the 60-day period. At the  
201 end of 1 year following the effective date of such adjusted  
202 rate, the local governing authority shall, as soon as is  
203 consistent with s. 202.21, reduce the rate by that portion of  
204 the emergency rate which was necessary to recoup the amount of  
205 revenues not received prior to the implementation of the  
206 emergency rate.

207 4. If, for the period October 1, 2001, through September  
208 30, 2002, the revenues received by a local government from the  
209 local communications services tax conversion rate established  
210 under subsection (1), adjusted upward for the difference in  
211 rates between paragraphs (1)(a) and (b) or any other rate  
212 adjustments or base changes, are above the threshold of 10  
213 percent more than the revenues received from the replaced  
214 revenue sources for the corresponding 2000-2001 period plus  
215 reasonably anticipated growth in such revenues over the  
216 preceding 1-year period, based on the average growth of such  
217 revenues over the immediately preceding 5-year period, the  
218 governing authority must adjust the rate of the local  
219 communications services tax to the extent necessary to reduce  
220 revenues to the threshold by emergency ordinance or resolution  
221 within the timeframes established in subparagraph 3. The  
222 foregoing rate adjustment requirement shall not apply to a local



CS/HB 567

2007

223 government that adopts a local communications services tax rate  
224 by resolution or ordinance. If complete data are not available  
225 at the time of determining whether the revenues exceed the  
226 threshold, the local government shall use the best data  
227 available for the corresponding 2000-2001 period in making such  
228 determination. This subparagraph shall not be construed as  
229 establishing a right of action for any person to enforce this  
230 subparagraph or challenge a local government's implementation of  
231 this subparagraph.

232 Section 8. Except as otherwise expressly provided by this  
233 act, this act shall take effect upon becoming a law.