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LEGISLATIVE ACTION

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| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/06/2012 | . |       |
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The Committee on Community Affairs (Ring) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 202.105, Florida Statutes, is amended to read:

202.105 Legislative findings and intent.—

(1) It is declared to be a specific legislative finding that the creation of this chapter fulfills important state interests by reforming the tax laws to provide a fair, efficient, and uniform method for taxing communications services sold in this state. This chapter is essential to the continued



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13 economic vitality of this increasingly important industry  
14 because it restructures state and local taxes and fees to  
15 account for the impact of federal legislation, industry  
16 deregulation, and the multitude of convergence of service  
17 offerings that is now taking place among providers offering  
18 functionally equivalent communications services in today's  
19 marketplace. This chapter promotes the increased competition  
20 that accompanies deregulation by embracing a competitively  
21 neutral tax policy that will free consumers to choose a provider  
22 based on tax-neutral considerations. This chapter further spurs  
23 new competition by simplifying an extremely complicated state  
24 and local tax and fee system. Simplification will lower the cost  
25 of collecting taxes and fees, increase service availability, and  
26 place downward pressure on price. Newfound administrative  
27 efficiency is demonstrated by a reduction in the number of  
28 returns that a provider must file each month. By restructuring  
29 separate taxes and fees into a revenue-neutral communications  
30 services tax centrally administered by the department, this  
31 chapter will ensure that the growth of the industry is  
32 unimpaired by excessive governmental regulation. The tax imposed  
33 pursuant to this chapter is a replacement for taxes and fees  
34 previously imposed and is not a new tax. The taxes imposed and  
35 administered pursuant to this chapter are of general application  
36 and are imposed in a uniform, consistent, and nondiscriminatory  
37 manner.

38 Section 2. Section 202.11, Florida Statutes, is amended to  
39 read:

40 202.11 Definitions.—As used in this chapter, the term:

41 ~~(1) "Cable service" means the transmission of video, audio,~~



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42 ~~or other programming service to purchasers, and the purchaser~~  
43 ~~interaction, if any, required for the selection or use of any~~  
44 ~~such programming service, regardless of whether the programming~~  
45 ~~is transmitted over facilities owned or operated by the cable~~  
46 ~~service provider or over facilities owned or operated by one or~~  
47 ~~more other dealers of communications services. The term includes~~  
48 ~~point-to-point and point-to-multipoint distribution services by~~  
49 ~~which programming is transmitted or broadcast by microwave or~~  
50 ~~other equipment directly to the purchaser's premises, but does~~  
51 ~~not include direct-to-home satellite service. The term includes~~  
52 ~~basic, extended, premium, pay-per-view, digital, and music~~  
53 ~~services.~~

54 (1) ~~(2)~~ "Communications services" means the transmission,  
55 conveyance, or routing of voice, data, audio, video, or any  
56 other information or signals, including video ~~cable~~ services, to  
57 a point, or between or among points, by or through any  
58 electronic, radio, satellite, cable, optical, microwave, or  
59 other medium or method now in existence or hereafter devised,  
60 regardless of the protocol used for such transmission or  
61 conveyance. The term includes such transmission, conveyance, or  
62 routing in which computer processing applications are used to  
63 act on the form, code, or protocol of the content for purposes  
64 of transmission, conveyance, or routing without regard to  
65 whether such service is referred to as voice-over-Internet-  
66 protocol services or is classified by the Federal Communications  
67 Commission as enhanced or value-added. The term does not  
68 include:

69 (a) Information services.

70 (b) Installation or maintenance of wiring or equipment on a



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71 customer's premises.

72 (c) The sale or rental of tangible personal property.

73 (d) The sale of advertising, including, but not limited to,  
74 directory advertising.

75 (e) Bad check charges.

76 (f) Late payment charges.

77 (g) Billing and collection services.

78 (h) Internet access service, electronic mail service,  
79 electronic bulletin board service, or similar online computer  
80 services.

81 (i) Digital goods.

82 (j) Digital services.

83 (2)~~(3)~~ "Dealer" means a person registered with the  
84 department as a provider of communications services in this  
85 state.

86 (3)~~(4)~~ "Department" means the Department of Revenue.

87 (4) "Digital good" means any downloaded good or product  
88 that is delivered or transferred by means other than tangible  
89 storage media, including downloaded games, software, music, or  
90 other digital content. The term does not include video service.

91 (5) "Digital service" means any service, other than video  
92 service, which is provided electronically, including remotely  
93 provided access to or use of software or another digital good,  
94 and also includes the following services, if they are provided  
95 remotely: monitoring, security, distance learning, energy  
96 management, medical diagnostic, mechanical diagnostic, and  
97 vehicle tracking services. If a digital service is bundled for  
98 sale with the transmission, conveyance, or routing of any  
99 information or signals, the bundled service is a digital service



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100 unless the tax imposed under this chapter and chapter 203 has  
101 not been paid with respect to such transmission, conveyance, or  
102 routing.

103 (6)~~(5)~~ "Direct-to-home satellite service" has the meaning  
104 ascribed in the Communications Act of 1934, 47 U.S.C. s. 303(v).

105 (7)~~(6)~~ "Information service" means the offering of a  
106 capability for generating, acquiring, storing, transforming,  
107 processing, retrieving, using, or making available information  
108 via communications services, including, but not limited to,  
109 electronic publishing, web-hosting service, and end-user 900  
110 number service. The term does not include ~~any video, audio, or~~  
111 ~~other programming service that uses point-to-multipoint~~  
112 ~~distribution by which programming is delivered, transmitted, or~~  
113 ~~broadcast by any means, including any interaction that may be~~  
114 ~~necessary for selecting and using the service, regardless of~~  
115 ~~whether the programming is delivered, transmitted, or broadcast~~  
116 ~~over facilities owned or operated by the seller or another, or~~  
117 ~~whether denominated as cable service or as basic, extended,~~  
118 ~~premium, pay-per-view, digital, music, or two-way cable service.~~

119 (8) "Internet access service" has the same meaning as  
120 ascribed to the term "Internet access" by s. 1105(5) of the  
121 Internet Tax Freedom Act, 47 U.S.C. s. 151 note, as amended by  
122 Pub. L. No. 110-108.

123 (9)~~(7)~~ "Mobile communications service" means ~~commercial~~  
124 mobile ~~radio~~ service, as defined in 47 C.F.R. s. 20.3 as in  
125 effect on June 1, 1999. The term does not include air-ground  
126 radiotelephone service as defined in 47 C.F.R. s. 22.99 as in  
127 effect on June 1, 1999.

128 (10)~~(8)~~ "Person" has the meaning ascribed in s. 212.02.



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129        (11)~~(9)~~ "Prepaid calling arrangement" means the separately  
130        stated retail sale by advance payment of communications services  
131        that consist exclusively of telephone calls originated by using  
132        an access number, authorization code, or other means that may be  
133        manually, electronically, or otherwise entered, and that are  
134        sold in predetermined units or dollars of which the number  
135        declines with use in a known amount.

136        (12)~~(10)~~ "Purchaser" means the person paying for or  
137        obligated to pay for communications services.

138        (13)~~(11)~~ "Retail sale" means the sale of communications  
139        services for any purpose other than for resale or for use as a  
140        component part of or for integration into communications  
141        services to be resold in the ordinary course of business.  
142        However, any sale for resale must comply with s. 202.16(2) and  
143        the rules adopted thereunder.

144        (14)~~(12)~~ "Sale" means the provision of communications  
145        services for a consideration.

146        (15)~~(13)~~ "Sales price" means the total amount charged in  
147        money or other consideration by a dealer for the sale of the  
148        right or privilege of using communications services in this  
149        state, including any property or other service, not described in  
150        paragraph (a), which is services that are part of the sale and  
151        for which the charge is not separately itemized on a customer's  
152        bill or separately allocated under subparagraph (b)8. The sales  
153        price of communications services may ~~shall~~ not be reduced by any  
154        separately identified components of the charge which ~~that~~  
155        constitute expenses of the dealer, including, but not limited  
156        to, sales taxes on goods or services purchased by the dealer,  
157        property taxes, taxes measured by net income, and universal-



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158 service fund fees.

159 (a) The sales price of communications services includes  
160 ~~shall include~~, whether or not separately stated, charges for any  
161 of the following:

162 1. The connection, movement, change, or termination of  
163 communications services.

164 2. The detailed billing of communications services.

165 3. The sale of directory listings in connection with a  
166 communications service.

167 4. Central office and custom calling features.

168 5. Voice mail and other messaging service.

169 6. Directory assistance.

170 7. The service of sending or receiving a document commonly  
171 referred to as a facsimile or "fax," except when performed  
172 during the course of providing professional or advertising  
173 services.

174 (b) The sales price of communications services does not  
175 include charges for any of the following:

176 1. An ~~Any~~ excise tax, sales tax, or similar tax levied by  
177 the United States or any state or local government on the  
178 purchase, sale, use, or consumption of any communications  
179 service, including, but not limited to, a ~~any~~ tax imposed under  
180 this chapter or chapter 203 which is permitted or required to be  
181 added to the sales price of such service, if the tax is stated  
182 separately.

183 2. A ~~Any~~ fee or assessment levied by the United States or  
184 any state or local government, including, but not limited to,  
185 regulatory fees and emergency telephone surcharges, which must  
186 ~~is required to~~ be added to the price of the ~~such~~ service if the



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187 fee or assessment is separately stated.

188 3. Communications services paid for by inserting coins into  
189 coin-operated communications devices available to the public.

190 4. The sale or recharge of a prepaid calling arrangement.

191 5. The provision of air-to-ground communications services,  
192 defined as a radio service provided to a purchaser ~~purchasers~~  
193 while on board an aircraft.

194 6. A dealer's internal use of communications services in  
195 connection with its business of providing communications  
196 services.

197 7. Charges for property or other services that are not part  
198 of the sale of communications services, if such charges are  
199 stated separately from the charges for communications services.

200 8. ~~To the extent required by federal law,~~ Charges for goods  
201 and services that are exempt from tax under this chapter,  
202 including Internet access services but excluding any item  
203 described in paragraph (a), that ~~which~~ are not separately  
204 itemized on a customer's bill, but that ~~which~~ can be reasonably  
205 identified from the selling dealer's books and records kept in  
206 the regular course of business. The dealer may support the  
207 allocation of charges with books and records kept in the regular  
208 course of business covering the dealer's entire service area,  
209 including territories outside this state.

210 (16) ~~(14)~~ "Service address" means:

211 (a) Except as otherwise provided in this section:

212 1. The location of the communications equipment from which  
213 communications services originate or at which communications  
214 services are received by the customer;

215 2. In the case of a communications service paid through a





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216 credit or payment mechanism that does not relate to a service  
217 address, such as a bank, travel, debit, or credit card, and in  
218 the case of third-number and calling-card calls, the term  
219 "service address" means the address of the central office, as  
220 determined by the area code and the first three digits of the  
221 seven-digit originating telephone number; or

222 3. If the location of the equipment described in  
223 subparagraph 1. is not known and subparagraph 2. is  
224 inapplicable, the term "service address" means the location of  
225 the customer's primary use of the communications service. For  
226 purposes of this subparagraph, the location of the customer's  
227 primary use of a communications service is the residential  
228 street address or the business street address of the customer.

229 (b) In the case of video ~~cable~~ services and direct-to-home  
230 satellite services, the location where the customer receives the  
231 services in this state.

232 (c) In the case of mobile communications services, the  
233 customer's place of primary use.

234 (17) ~~(15)~~ "Unbundled network element" means a network  
235 element, as defined in 47 U.S.C. s. 153(29), to which access is  
236 provided on an unbundled basis pursuant to 47 U.S.C. s.  
237 251(c) (3).

238 (18) ~~(16)~~ "Private communications service" means a  
239 communications service that entitles the subscriber or user to  
240 exclusive or priority use of a communications channel or group  
241 of channels between or among channel termination points,  
242 regardless of the manner in which such channel or channels are  
243 connected, and includes switching capacity, extension lines,  
244 stations, and any other associated services that ~~which~~ are



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245 provided in connection with the use of such channel or channels.

246 ~~(19)-(17)~~ (a) "Customer" means:

247 1. The person or entity that contracts with the home  
248 service provider for mobile communications services; or

249 2. If the end user of mobile communications services is not  
250 the contracting party, the end user of the mobile communications  
251 service. This subparagraph only applies for the purpose of  
252 determining the place of primary use.

253 (b) "Customer" does not include:

254 1. A reseller of mobile communications services; or

255 2. A serving carrier under an agreement to serve the  
256 customer outside the home service provider's licensed service  
257 area.

258 ~~(20)-(18)~~ "Enhanced zip code" means a United States postal  
259 zip code of 9 or more digits.

260 ~~(21)-(19)~~ "Home service provider" means the facilities-based  
261 carrier or reseller with which the customer contracts for the  
262 provision of mobile communications services.

263 ~~(22)-(20)~~ "Licensed service area" means the geographic area  
264 in which the home service provider is authorized by law or  
265 contract to provide mobile communications service to the  
266 customer.

267 ~~(23)-(21)~~ "Place of primary use" means the street address  
268 representative of where the customer's use of the mobile  
269 communications service primarily occurs, which must be:

270 (a) The residential street address or the primary business  
271 street address of the customer; and

272 (b) Within the licensed service area of the home service  
273 provider.



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274           ~~(24)~~~~(22)~~ (a) "Reseller" means a provider who purchases  
275 communications services from another communications service  
276 provider and then resells, uses as a component part of, or  
277 integrates the purchased services into a mobile communications  
278 service.

279           (b) The term ~~"Reseller"~~ does not include a serving carrier  
280 with which a home service provider arranges for the services to  
281 its customers outside the home service provider's licensed  
282 service area.

283           ~~(25)~~~~(23)~~ "Serving carrier" means a facilities-based carrier  
284 providing mobile communications service to a customer outside a  
285 home service provider's or reseller's licensed service area.

286           ~~(26)~~~~(24)~~ "Video service" means the transmission of video,  
287 audio, or other programming service to a purchaser, and the  
288 purchaser interaction, if any, required for the selection or use  
289 of a programming service, regardless of whether the programming  
290 is transmitted over facilities owned or operated by the video  
291 service provider or over facilities owned or operated by another  
292 dealer of communications services. The term includes point-to-  
293 point and point-to-multipoint distribution services through  
294 which programming is transmitted or broadcast by microwave or  
295 other equipment directly to the purchaser's premises, but does  
296 not include direct-to-home satellite service. The term includes  
297 basic, extended, premium, pay-per-view, digital video, two-way  
298 cable, and music services ~~has the same meaning as that provided~~  
299 ~~in s. 610.103.~~

300           Section 3. Subsection (1) of section 202.125, Florida  
301 Statutes, is amended to read:

302           202.125 Sales of communications services; specified



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303 exemptions.-

304 (1) The separately stated sales price of communications  
305 services sold to residential households is exempt from the tax  
306 imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption does  
307 not apply to any residence that constitutes all or part of a  
308 transient public lodging establishment as defined in chapter  
309 509, any mobile communications service, any video ~~cable~~ service,  
310 or any direct-to-home satellite service.

311 Section 4. Paragraph (a) of subsection (2) of section  
312 202.16, Florida Statutes, is amended to read:

313 202.16 Payment.-The taxes imposed or administered under  
314 this chapter and chapter 203 shall be collected from all dealers  
315 of taxable communications services on the sale at retail in this  
316 state of communications services taxable under this chapter and  
317 chapter 203. The full amount of the taxes on a credit sale,  
318 installment sale, or sale made on any kind of deferred payment  
319 plan is due at the moment of the transaction in the same manner  
320 as a cash sale.

321 (2) (a) A sale of communications services that are used as a  
322 component part of or integrated into a communications service or  
323 prepaid calling arrangement for resale, including, but not  
324 limited to, carrier-access charges, interconnection charges paid  
325 by providers of mobile communication services or other  
326 communication services, charges paid by a video ~~cable~~ service  
327 provider providers for the purchase of video programming or the  
328 transmission of video or other programming by another dealer of  
329 communications services, charges for the sale of unbundled  
330 network elements, and any other intercompany charges for the use  
331 of facilities for providing communications services for resale,



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332 must be made in compliance with the rules of the department. A  
333 ~~Any~~ person who makes a sale for resale which is not in  
334 compliance with these rules is liable for any tax, penalty, and  
335 interest due for failing to comply, to be calculated pursuant to  
336 s. 202.28(2)(a).

337 Section 5. Paragraph (c) of subsection (3) of section  
338 202.18, Florida Statutes, is amended to read:

339 202.18 Allocation and disposition of tax proceeds.—The  
340 proceeds of the communications services taxes remitted under  
341 this chapter shall be treated as follows:

342 (3)

343 (c)1. Except as otherwise provided in this paragraph,  
344 proceeds of the taxes levied pursuant to s. 202.19, less amounts  
345 deducted for costs of administration in accordance with  
346 paragraph (b), shall be distributed monthly to the appropriate  
347 jurisdictions. The proceeds of taxes imposed pursuant to s.  
348 202.19(5) shall be distributed in the same manner as  
349 discretionary surtaxes are distributed, in accordance with ss.  
350 212.054 and 212.055.

351 2. The department shall make any adjustments to the  
352 distributions pursuant to this section which are necessary to  
353 reflect the proper amounts due to individual jurisdictions or  
354 trust funds. In the event that the department adjusts amounts  
355 due to reflect a correction in the situsing of a customer, such  
356 adjustment shall be limited to the amount of tax actually  
357 collected from such customer by the dealer of communication  
358 services.

359 3.a. ~~Notwithstanding the time period specified in s.~~  
360 ~~202.22(5),~~ Adjustments in distributions which are necessary to



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361 correct misallocations between jurisdictions shall be governed  
362 by this subparagraph. If the department determines that  
363 misallocations between jurisdictions occurred, it shall provide  
364 written notice of such determination to all affected  
365 jurisdictions. The notice shall include the amount of the  
366 misallocations, the basis upon which the determination was made,  
367 data supporting the determination, and the identity of each  
368 affected jurisdiction. The notice shall also inform all affected  
369 jurisdictions of their authority to enter into a written  
370 agreement establishing a method of adjustment as described in  
371 sub-subparagraph c.

372       b. An adjustment affecting a distribution to a jurisdiction  
373 which is less than 90 percent of the average monthly  
374 distribution to that jurisdiction for the 6 months immediately  
375 preceding the department's determination, as reported by all  
376 communications services dealers, shall be made in the month  
377 immediately following the department's determination that  
378 misallocations occurred.

379       c. If an adjustment affecting a distribution to a  
380 jurisdiction equals or exceeds 90 percent of the average monthly  
381 distribution to that jurisdiction for the 6 months immediately  
382 preceding the department's determination, as reported by all  
383 communications services dealers, the affected jurisdictions may  
384 enter into a written agreement establishing a method of  
385 adjustment. If the agreement establishing a method of adjustment  
386 provides for payments of local communications services tax  
387 monthly distributions, the amount of any such payment agreed to  
388 may not exceed the local communications services tax monthly  
389 distributions available to the jurisdiction that was allocated



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390 amounts in excess of those to which it was entitled. If affected  
391 jurisdictions execute a written agreement specifying a method of  
392 adjustment, a copy of the written agreement shall be provided to  
393 the department no later than the first day of the month  
394 following 90 days after the date the department transmits notice  
395 of the misallocation. If the department does not receive a copy  
396 of the written agreement within the specified time period, an  
397 adjustment affecting a distribution to a jurisdiction made  
398 pursuant to this sub-subparagraph shall be prorated over a time  
399 period that equals the time period over which the misallocations  
400 occurred.

401 Section 6. Subsections (1) and (3) of section 202.195,  
402 Florida Statutes, are amended to read:

403 202.195 Proprietary confidential business information;  
404 public records exemption.—

405 (1) Proprietary confidential business information obtained  
406 from a telecommunications company or from a franchised or  
407 certificated video service provider ~~cable company~~ for the  
408 purposes of ~~imposing fees for occupying the public rights-of-~~  
409 ~~way,~~ assessing the local communications services tax pursuant to  
410 s. 202.19, or occupying or regulating the public rights-of-way,  
411 held by a local governmental entity, is confidential and exempt  
412 from s. 119.07(1) and s. 24(a), Art. I of the State  
413 Constitution. Such proprietary confidential business information  
414 held by a local governmental entity may be used only for the  
415 purposes of ~~imposing such fees,~~ assessing such tax, or  
416 regulating such rights-of-way, and may not be used for any other  
417 purposes, including, but not limited to, commercial or  
418 competitive purposes.



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419           (3) ~~Nothing in~~ This exemption does not expand ~~expands~~ the  
420 information or documentation that a local governmental entity  
421 may properly request under applicable law pursuant to ~~the~~  
422 ~~imposition of fees for~~ occupying the rights-of-way, the local  
423 communication services tax, or the regulation of its public  
424 rights-of-way.

425           Section 7. Paragraph (b) of subsection (2) of section  
426 202.20, Florida Statutes, is amended to read:

427           202.20 Local communications services tax conversion rates.—

428           (2)

429           (b) Except as otherwise provided in this subsection, the  
430 term "replaced revenue sources," as used in this section, means  
431 the following taxes, charges, fees, or other impositions to the  
432 extent that the respective local taxing jurisdictions were  
433 authorized to impose them prior to July 1, 2000.

434           1. With respect to municipalities and charter counties and  
435 the taxes authorized by s. 202.19(1):

436           a. The public service tax on telecommunications authorized  
437 by former s. 166.231(9).

438           b. Franchise fees on video ~~cable~~ service providers as  
439 authorized by 47 U.S.C. s. 542.

440           c. The public service tax on prepaid calling arrangements.

441           d. Franchise fees on dealers of communications services  
442 which use the public roads or rights-of-way, up to the limit set  
443 forth in s. 337.401. For purposes of calculating rates under  
444 this section, it is the legislative intent that charter counties  
445 be treated as having had the same authority as municipalities to  
446 impose franchise fees on recurring local telecommunication  
447 service revenues before ~~prior to~~ July 1, 2000. However, the





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448 Legislature recognizes that the authority of charter counties to  
449 impose such fees is in dispute, and the treatment provided in  
450 this section is not an expression of legislative intent that  
451 charter counties actually do or do not possess such authority.

452 e. Actual permit fees relating to placing or maintaining  
453 facilities in or on public roads or rights-of-way, collected  
454 from providers of long-distance, cable, and mobile  
455 communications services for the fiscal year ending September 30,  
456 1999; however, if a municipality or charter county elects the  
457 option to charge permit fees pursuant to s. 337.401(3)(c)1.a.,  
458 such fees may ~~shall~~ not be included as a replaced revenue  
459 source.

460 2. With respect to all other counties and the taxes  
461 authorized in s. 202.19(1), franchise fees on video ~~cable~~  
462 service providers as authorized by 47 U.S.C. s. 542.

463 Section 8. Subsections (5) and (6) of section 202.22,  
464 Florida Statutes, are amended to read:

465 202.22 Determination of local tax situs.—

466 (5) If a dealer of communications services does not use one  
467 or more of the methods specified in subsection (1) for  
468 determining the local taxing jurisdiction in which one or more  
469 service addresses are ~~a service address is~~ located and:

470 (a) The dealer's failure to use one or more of such methods  
471 results in a net aggregate underpayment of all taxes levied  
472 pursuant to s. 202.19 with respect to one or more tax periods  
473 that are being examined by the department; and

474 (b) The department has determined the misallocations  
475 between jurisdictions for all taxes levied pursuant to s. 202.19  
476 and collected by the dealer with respect to any tax period being



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477 examined by the department; then,  
478  
479 the dealer of communications services may be held liable to the  
480 department for the net aggregate underpayment of any tax, and  
481 for including interest and penalties attributable to the net  
482 aggregate underpayment of tax, which is due as a result of  
483 assigning one or more the service addresses address to an  
484 incorrect local taxing jurisdiction. However, the dealer of  
485 communications services is not liable for any tax, interest, or  
486 penalty under this subsection unless the department has  
487 determined the net aggregate underpayment of tax for any tax  
488 period that is being examined, taking into account all  
489 underpayments and overpayments for such period or periods to the  
490 extent that such amount was collected and remitted by the dealer  
491 of communications services with respect to a tax imposed by  
492 another local taxing jurisdiction. Upon determining that an  
493 amount was collected and remitted by a dealer of communications  
494 services with respect to a tax imposed by another local taxing  
495 jurisdiction, the department shall adjust the respective amounts  
496 of the proceeds paid to each such taxing jurisdiction under s.  
497 202.18 in the month immediately following such determination.

498 (6) (a) Pursuant to rules adopted by the department, each  
499 dealer of communications services must notify the department of  
500 the methods it intends to employ for determining the local  
501 taxing jurisdiction in which service addresses are located.

502 (b) Notwithstanding s. 202.28, if a dealer of  
503 communications services:

504 1. Employs a method of assigning service addresses other  
505 than as set forth in paragraph (1) (a), paragraph (1) (b), or



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506 paragraph (1)(c), the deduction allowed to the dealer of  
507 communications services as compensation under s. 202.28 shall be  
508 0.25 percent of that portion of the tax due and accounted for  
509 and remitted to the department which is attributable to such  
510 method of assigning service addresses other than as set forth in  
511 paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c).

512 2. Employs a method of assigning service addresses as set  
513 forth in paragraph (1)(a), paragraph (1)(b), or paragraph  
514 (1)(c), the department may not deny the deduction allowed to the  
515 dealer of communications services as compensation allowed under  
516 s. 202.28 because the dealer assigned one or more service  
517 addresses to an incorrect local taxing jurisdiction.

518 Section 9. Subsection (3) is added to section 202.231,  
519 Florida Statutes, to read:

520 202.231 Provision of information to local taxing  
521 jurisdictions.—

522 (3) The gross taxable sales and net tax information  
523 contained in the monthly reports required by this section shall  
524 be aggregated on a jurisdiction-by-jurisdiction basis, and the  
525 aggregate jurisdiction-by-jurisdiction information shall be made  
526 available by the department to the public through the  
527 department's website for each fiscal year this chapter has been  
528 in effect.

529 Section 10. Paragraphs (a) and (c) of subsection (2) of  
530 section 202.24, Florida Statutes, are amended to read:

531 202.24 Limitations on local taxes and fees imposed on  
532 dealers of communications services.—

533 (2)(a) Except as provided in paragraph (c), each public  
534 body is prohibited from:



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535           1. Levying on or collecting from dealers or purchasers of  
536 communications services any tax, charge, fee, or other  
537 imposition on or with respect to the provision or purchase of  
538 communications services.

539           2. Requiring any dealer of communications services to enter  
540 into or extend the term of a franchise or other agreement that  
541 requires the payment of a tax, charge, fee, or other imposition.

542           3. Adopting or enforcing any provision of any ordinance or  
543 agreement to the extent that such provision obligates a dealer  
544 of communications services to charge, collect, or pay to the  
545 public body a tax, charge, fee, or other imposition.

546  
547 Municipalities and counties may not negotiate those terms and  
548 conditions related to franchise fees or the definition of gross  
549 revenues or other definitions or methodologies related to the  
550 payment or assessment of franchise fees on providers of ~~cable or~~  
551 video services.

552           (c) This subsection does not apply to:

553           1. Local communications services taxes levied under this  
554 chapter.

555           2. Ad valorem taxes levied pursuant to chapter 200.

556           3. Business taxes levied under chapter 205.

557           4. "911" service charges levied under chapter 365.

558           5. Amounts charged for the rental or other use of property  
559 owned by a public body which is not in the public rights-of-way  
560 to a dealer of communications services for any purpose,  
561 including, but not limited to, the placement or attachment of  
562 equipment used in the provision of communications services.

563           6. Permit fees of general applicability which are not



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564 related to placing or maintaining facilities in or on public  
565 roads or rights-of-way.

566 7. Permit fees related to placing or maintaining facilities  
567 in or on public roads or rights-of-way pursuant to s. 337.401.

568 8. Any in-kind requirements, institutional networks, or  
569 contributions for, or in support of, the use or construction of  
570 public, educational, or governmental access facilities allowed  
571 under federal law and imposed on providers of ~~cable or~~ video  
572 service pursuant to any existing ordinance or an existing  
573 franchise agreement granted by each municipality or county,  
574 under which ordinance or franchise agreement service is provided  
575 before ~~prior to~~ July 1, 2007, or as permitted under chapter 610.  
576 ~~Nothing in~~ This subparagraph does not shall prohibit ~~the ability~~  
577 ~~of~~ providers of ~~cable or~~ video service from recovering the ~~to~~  
578 ~~recover such~~ expenses as allowed under federal law.

579 9. Special assessments and impact fees.

580 10. Pole attachment fees that are charged by a local  
581 government for attachments to utility poles owned by the local  
582 government.

583 11. Utility service fees or other similar user fees for  
584 utility services.

585 12. Any other generally applicable tax, fee, charge, or  
586 imposition authorized by general law on July 1, 2000, which is  
587 not specifically prohibited by this subsection or included as a  
588 replaced revenue source in s. 202.20.

589 Section 11. Paragraph (j) of subsection (3) of section  
590 202.26, Florida Statutes, is amended to read:

591 202.26 Department powers.—

592 (3) To administer the tax imposed by this chapter, the



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593 department may adopt rules relating to:

594 (j) The types of books and records kept in the regular  
595 course of business which must be available during an audit of a  
596 dealer's books and records when the dealer has made an  
597 allocation or attribution pursuant to the definition of sales  
598 prices in s. 202.11(15)(b)8. ~~202.11(13)(b)8.~~ and examples of  
599 methods for determining the reasonableness thereof. Books and  
600 records kept in the regular course of business include, but are  
601 not limited to, general ledgers, price lists, cost records,  
602 customer billings, billing system reports, tariffs, and other  
603 regulatory filings and rules of regulatory authorities. The ~~Such~~  
604 records may be required to be made available to the department  
605 in an electronic format when so kept by the dealer. The dealer  
606 may support the allocation of charges with books and records  
607 kept in the regular course of business covering the dealer's  
608 entire service area, including territories outside this state.  
609 During an audit, the department may reasonably require  
610 production of any additional books and records found necessary  
611 to assist in its determination.

612 Section 12. Paragraph (a) of subsection (1) of section  
613 203.01, Florida Statutes, is amended to read:

614 203.01 Tax on gross receipts for utility and communications  
615 services.—

616 (1)(a)1. A tax is imposed on gross receipts from utility  
617 services that are delivered to a retail consumer in this state.  
618 The ~~Such~~ tax shall be levied as provided in paragraphs (b)-(j).

619 2. A tax is levied on communications services as defined in  
620 s. 202.11(1) ~~202.11(2)~~. The ~~Such~~ tax shall be applied to the  
621 same services and transactions as are subject to taxation under



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622 chapter 202, and to communications services that are subject to  
623 the exemption provided in s. 202.125(1). The ~~Such~~ tax shall be  
624 applied to the sales price of communications services when sold  
625 at retail, as the ~~such~~ terms are defined in s. 202.11, shall be  
626 due and payable at the same time as the taxes imposed pursuant  
627 to chapter 202, and shall be administered and collected pursuant  
628 to the provisions of chapter 202.

629 Section 13. Paragraph (a) of subsection (1) of section  
630 610.118, Florida Statutes, is amended to read:

631 610.118 Impairment; court-ordered operations.—

632 (1) If an incumbent cable or video service provider is  
633 required to operate under its existing franchise and is legally  
634 prevented by a lawfully issued order of a court of competent  
635 jurisdiction from exercising its right to terminate its existing  
636 franchise pursuant to the terms of s. 610.105, any  
637 certificateholder providing cable service or video service in  
638 whole or in part within the service area that is the subject of  
639 the incumbent cable or video service provider's franchise shall,  
640 for as long as the court order remains in effect, comply with  
641 the following franchise terms and conditions as applicable to  
642 the incumbent cable or video service provider in the service  
643 area:

644 (a) The certificateholder shall pay to the municipality or  
645 county:

646 1. Any prospective lump-sum or recurring per-subscriber  
647 funding obligations to support public, educational, and  
648 governmental access channels or other prospective franchise-  
649 required monetary grants related to public, educational, or  
650 governmental access facilities equipment and capital costs.



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651 Prospective lump-sum payments shall be made on an equivalent  
652 per-subscriber basis calculated as follows: the amount of the  
653 prospective funding obligations divided by the number of  
654 subscribers being served by the incumbent cable service provider  
655 at the time of payment, divided by the number of months  
656 remaining in the incumbent cable or video service provider's  
657 franchise equals the monthly per subscriber amount to be paid by  
658 the certificateholder until the expiration or termination of the  
659 incumbent cable or video service provider's franchise; and

660       2. If the incumbent cable or video service provider is  
661 required to make payments for the funding of an institutional  
662 network, the certificateholder shall pay an amount equal to the  
663 incumbent's funding obligations but not to exceed 1 percent of  
664 the sales price, as defined in s. 202.11(15) ~~202.11(13)~~, for the  
665 taxable monthly retail sales of cable or video programming  
666 services the certificateholder received from subscribers in the  
667 affected municipality or county. All definitions and exemptions  
668 under chapter 202 apply in the determination of taxable monthly  
669 retail sales of cable or video programming services.

670       Section 14. Section 624.105, Florida Statutes, is amended  
671 to read:

672       624.105 Waiver of customer liability.—Any regulated company  
673 as defined in s. 350.111, any electric utility as defined in s.  
674 366.02(2), any utility as defined in s. 367.021(12) or s.  
675 367.022(2) and (7), and any provider of communications services  
676 as defined in s. 202.11(1) ~~202.11(2)~~ may charge for and include  
677 an optional waiver of liability provision in their customer  
678 contracts under which the entity agrees to waive all or a  
679 portion of the customer's liability for service from the entity





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680 for a defined period in the event of the customer's call to  
681 active military service, death, disability, involuntary  
682 unemployment, qualification for family leave, or similar  
683 qualifying event or condition. Such provisions may not be  
684 effective in the customer's contract with the entity unless  
685 affirmatively elected by the customer. No such provision shall  
686 constitute insurance so long as the provision is a contract  
687 between the entity and its customer.

688 Section 15. The following changes made in this act are  
689 intended to be remedial in nature and apply retroactively, but  
690 do not provide a basis for an assessment of any tax not paid or  
691 create a right to a refund or credit of any tax paid before the  
692 general effective date of this act:

693 (1) The changes made in section 2 of this act to  
694 subsections renumbered as subsections (9) and (15) of s. 202.11,  
695 Florida Statutes.

696 (2) The changes made in section 8 of this act to s. 202.22,  
697 Florida Statutes.

698 Section 16. This act shall take effect July 1, 2012.

699  
700 ===== T I T L E A M E N D M E N T =====

701 And the title is amended as follows:

702 Delete everything before the enacting clause  
703 and insert:

704 A bill to be entitled  
705 An act relating to communications services taxes;  
706 amending s. 202.105, F.S.; revising legislative  
707 intent; amending s. 202.11, F.S.; modifying  
708 definitions; removing the definition of the term



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709 "cable service"; adding definitions for the terms  
710 "digital good," "digital service," and "Internet  
711 access service"; revising the definitions of the terms  
712 "communication services," "information service,"  
713 "mobile communication service," "sales price,"  
714 "service address," and "video service"; amending ss.  
715 202.125, 202.16, 202.20, and 202.24, F.S.; conforming  
716 provisions to changes in terminology; amending s.  
717 202.18, F.S.; removing a cross-reference to conform;  
718 amending s. 202.195, F.S.; clarifying provisions  
719 exempting from the public records law certain  
720 proprietary confidential business information held by  
721 a local governmental entity for the purpose of  
722 assessing the local communications services tax;  
723 amending s. 202.22, F.S.; revising provisions relating  
724 to a communications services dealer's liability for  
725 tax underpayments that result from the incorrect  
726 assignment of service addresses to local taxing  
727 jurisdictions and providing requirements and  
728 conditions with respect thereto; prohibiting the  
729 department from denying a dealer of communications  
730 services a deduction of a specified amount as a  
731 collection allowance under certain circumstances;  
732 amending s. 202.231, F.S.; requiring the Department of  
733 Revenue to aggregate monthly and make available to the  
734 public on a jurisdiction-by-jurisdiction basis certain  
735 sales and net tax information; amending s. 202.26,  
736 F.S.; conforming a cross-reference; amending ss.  
737 203.01, 610.118, and 624.105, F.S.; conforming cross-



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738 references; providing for certain retroactive effect;  
739 providing an effective date.