

By the Committees on Community Affairs; and Communications,
Energy, and Public Utilities; and Senators Bogdanoff and Lynn

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1 A bill to be entitled
2 An act relating to communications services taxes;
3 amending s. 202.105, F.S.; revising legislative
4 intent; amending s. 202.11, F.S.; modifying
5 definitions; removing the definition of the term
6 "cable service"; adding definitions for the terms
7 "digital good," "digital service," and "Internet
8 access service"; revising the definitions of the terms
9 "communication services," "information service,"
10 "mobile communication service," "sales price,"
11 "service address," and "video service"; amending ss.
12 202.125, 202.16, 202.20, and 202.24, F.S.; conforming
13 provisions to changes in terminology; amending s.
14 202.18, F.S.; removing a cross-reference to conform;
15 amending s. 202.195, F.S.; clarifying provisions
16 exempting from the public records law certain
17 proprietary confidential business information held by
18 a local governmental entity for the purpose of
19 assessing the local communications services tax;
20 amending s. 202.22, F.S.; revising provisions relating
21 to a communications services dealer's liability for
22 tax underpayments that result from the incorrect
23 assignment of service addresses to local taxing
24 jurisdictions and providing requirements and
25 conditions with respect thereto; prohibiting the
26 department from denying a dealer of communications
27 services a deduction of a specified amount as a
28 collection allowance under certain circumstances;
29 amending s. 202.231, F.S.; requiring the Department of

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30 Revenue to aggregate monthly and make available to the
31 public on a jurisdiction-by-jurisdiction basis certain
32 sales and net tax information; amending s. 202.26,
33 F.S.; conforming a cross-reference; amending ss.
34 203.01, 610.118, and 624.105, F.S.; conforming cross-
35 references; providing for certain retroactive effect;
36 providing an effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

39
40 Section 1. Subsection (1) of section 202.105, Florida
41 Statutes, is amended to read:

42 202.105 Legislative findings and intent.—

43 (1) It is declared to be a specific legislative finding
44 that the creation of this chapter fulfills important state
45 interests by reforming the tax laws to provide a fair,
46 efficient, and uniform method for taxing communications services
47 sold in this state. This chapter is essential to the continued
48 economic vitality of this increasingly important industry
49 because it restructures state and local taxes and fees to
50 account for the impact of federal legislation, industry
51 deregulation, and the multitude of convergence of service
52 offerings that is now taking place among providers offering
53 functionally equivalent communications services in today's
54 marketplace. This chapter promotes the increased competition
55 that accompanies deregulation by embracing a competitively
56 neutral tax policy that will free consumers to choose a provider
57 based on tax-neutral considerations. This chapter further spurs
58 new competition by simplifying an extremely complicated state

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59 and local tax and fee system. Simplification will lower the cost
60 of collecting taxes and fees, increase service availability, and
61 place downward pressure on price. Newfound administrative
62 efficiency is demonstrated by a reduction in the number of
63 returns that a provider must file each month. By restructuring
64 separate taxes and fees into a revenue-neutral communications
65 services tax centrally administered by the department, this
66 chapter will ensure that the growth of the industry is
67 unimpaired by excessive governmental regulation. The tax imposed
68 pursuant to this chapter is a replacement for taxes and fees
69 previously imposed and is not a new tax. The taxes imposed and
70 administered pursuant to this chapter are of general application
71 and are imposed in a uniform, consistent, and nondiscriminatory
72 manner.

73 Section 2. Section 202.11, Florida Statutes, is amended to
74 read:

75 202.11 Definitions.—As used in this chapter, the term:

76 ~~(1) "Cable service" means the transmission of video, audio,~~
77 ~~or other programming service to purchasers, and the purchaser~~
78 ~~interaction, if any, required for the selection or use of any~~
79 ~~such programming service, regardless of whether the programming~~
80 ~~is transmitted over facilities owned or operated by the cable~~
81 ~~service provider or over facilities owned or operated by one or~~
82 ~~more other dealers of communications services. The term includes~~
83 ~~point-to-point and point-to-multipoint distribution services by~~
84 ~~which programming is transmitted or broadcast by microwave or~~
85 ~~other equipment directly to the purchaser's premises, but does~~
86 ~~not include direct-to-home satellite service. The term includes~~
87 ~~basic, extended, premium, pay per view, digital, and music~~

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88 ~~services.~~

89 (1)~~(2)~~ "Communications services" means the transmission,
90 conveyance, or routing of voice, data, audio, video, or any
91 other information or signals, including video ~~cable~~ services, to
92 a point, or between or among points, by or through any
93 electronic, radio, satellite, cable, optical, microwave, or
94 other medium or method now in existence or hereafter devised,
95 regardless of the protocol used for such transmission or
96 conveyance. The term includes such transmission, conveyance, or
97 routing in which computer processing applications are used to
98 act on the form, code, or protocol of the content for purposes
99 of transmission, conveyance, or routing without regard to
100 whether such service is referred to as voice-over-Internet-
101 protocol services or is classified by the Federal Communications
102 Commission as enhanced or value-added. The term does not
103 include:

104 (a) Information services.

105 (b) Installation or maintenance of wiring or equipment on a
106 customer's premises.

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

108 (d) The sale of advertising, including, but not limited to,
109 directory advertising.

110 (e) Bad check charges.

111 (f) Late payment charges.

112 (g) Billing and collection services.

113 (h) Internet access service, electronic mail service,
114 electronic bulletin board service, or similar online computer
115 services.

116 (i) Digital goods.

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117 (j) Digital services.

118 (2)-(3) "Dealer" means a person registered with the
119 department as a provider of communications services in this
120 state.

121 (3)-(4) "Department" means the Department of Revenue.

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

126 (5) "Digital service" means any service, other than video
127 service, which is provided electronically, including remotely
128 provided access to or use of software or another digital good,
129 and also includes the following services, if they are provided
130 remotely: monitoring, security, distance learning, energy
131 management, medical diagnostic, mechanical diagnostic, and
132 vehicle tracking services. If a digital service is bundled for
133 sale with the transmission, conveyance, or routing of any
134 information or signals, the bundled service is a digital service
135 unless the tax imposed under this chapter and chapter 203 has
136 not been paid with respect to such transmission, conveyance, or
137 routing.

138 (6)-(5) "Direct-to-home satellite service" has the meaning
139 ascribed in the Communications Act of 1934, 47 U.S.C. s. 303(v).

140 (7)-(6) "Information service" means the offering of a
141 capability for generating, acquiring, storing, transforming,
142 processing, retrieving, using, or making available information
143 via communications services, including, but not limited to,
144 electronic publishing, web-hosting service, and end-user 900
145 number service. The term does not include ~~any video, audio, or~~

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146 ~~other programming service that uses point-to-multipoint~~
147 ~~distribution by which programming is delivered, transmitted, or~~
148 ~~broadcast by any means, including any interaction that may be~~
149 ~~necessary for selecting and using the service, regardless of~~
150 ~~whether the programming is delivered, transmitted, or broadcast~~
151 ~~over facilities owned or operated by the seller or another, or~~
152 ~~whether denominated as cable service or as basic, extended,~~
153 ~~premium, pay-per-view, digital, music, or two-way cable service.~~

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

158 (9)~~(7)~~ "Mobile communications service" means ~~commercial~~
159 ~~mobile radio~~ service, as defined in 47 C.F.R. s. 20.3 as in
160 effect on June 1, 1999. The term does not include air-ground
161 radiotelephone service as defined in 47 C.F.R. s. 22.99 as in
162 effect on June 1, 1999.

163 (10)~~(8)~~ "Person" has the meaning ascribed in s. 212.02.

164 (11)~~(9)~~ "Prepaid calling arrangement" means the separately
165 stated retail sale by advance payment of communications services
166 that consist exclusively of telephone calls originated by using
167 an access number, authorization code, or other means that may be
168 manually, electronically, or otherwise entered, and that are
169 sold in predetermined units or dollars of which the number
170 declines with use in a known amount.

171 (12)~~(10)~~ "Purchaser" means the person paying for or
172 obligated to pay for communications services.

173 (13)~~(11)~~ "Retail sale" means the sale of communications
174 services for any purpose other than for resale or for use as a

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175 component part of or for integration into communications
176 services to be resold in the ordinary course of business.
177 However, any sale for resale must comply with s. 202.16(2) and
178 the rules adopted thereunder.

179 (14)~~(12)~~ "Sale" means the provision of communications
180 services for a consideration.

181 (15)~~(13)~~ "Sales price" means the total amount charged in
182 money or other consideration by a dealer for the sale of the
183 right or privilege of using communications services in this
184 state, including any property or other service, not described in
185 paragraph (a), which is services that are part of the sale and
186 for which the charge is not separately itemized on a customer's
187 bill or separately allocated under subparagraph (b)8. The sales
188 price of communications services may ~~shall~~ not be reduced by any
189 separately identified components of the charge which ~~that~~
190 constitute expenses of the dealer, including, but not limited
191 to, sales taxes on goods or services purchased by the dealer,
192 property taxes, taxes measured by net income, and universal-
193 service fund fees.

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

- 197 1. The connection, movement, change, or termination of
198 communications services.
- 199 2. The detailed billing of communications services.
- 200 3. The sale of directory listings in connection with a
201 communications service.
- 202 4. Central office and custom calling features.
- 203 5. Voice mail and other messaging service.

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204 6. Directory assistance.

205 7. The service of sending or receiving a document commonly
206 referred to as a facsimile or "fax," except when performed
207 during the course of providing professional or advertising
208 services.

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

211 1. An ~~Any~~ excise tax, sales tax, or similar tax levied by
212 the United States or any state or local government on the
213 purchase, sale, use, or consumption of any communications
214 service, including, but not limited to, a ~~any~~ tax imposed under
215 this chapter or chapter 203 which is permitted or required to be
216 added to the sales price of such service, if the tax is stated
217 separately.

218 2. A ~~Any~~ fee or assessment levied by the United States or
219 any state or local government, including, but not limited to,
220 regulatory fees and emergency telephone surcharges, which must
221 ~~is required to~~ be added to the price of the ~~such~~ service if the
222 fee or assessment is separately stated.

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

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

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

229 6. A dealer's internal use of communications services in
230 connection with its business of providing communications
231 services.

232 7. Charges for property or other services that are not part

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233 of the sale of communications services, if such charges are
234 stated separately from the charges for communications services.

235 ~~8. To the extent required by federal law,~~ Charges for goods
236 and services that are exempt from tax under this chapter,
237 including Internet access services but excluding any item
238 described in paragraph (a), that ~~which~~ are not separately
239 itemized on a customer's bill, but that ~~which~~ can be reasonably
240 identified from the selling dealer's books and records kept in
241 the regular course of business. The dealer may support the
242 allocation of charges with books and records kept in the regular
243 course of business covering the dealer's entire service area,
244 including territories outside this state.

245 ~~(16)-(14)~~ "Service address" means:

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

247 1. The location of the communications equipment from which
248 communications services originate or at which communications
249 services are received by the customer;

250 2. In the case of a communications service paid through a
251 credit or payment mechanism that does not relate to a service
252 address, such as a bank, travel, debit, or credit card, and in
253 the case of third-number and calling-card calls, the term
254 "service address" means the address of the central office, as
255 determined by the area code and the first three digits of the
256 seven-digit originating telephone number; or

257 3. If the location of the equipment described in
258 subparagraph 1. is not known and subparagraph 2. is
259 inapplicable, the term "service address" means the location of
260 the customer's primary use of the communications service. For
261 purposes of this subparagraph, the location of the customer's

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262 primary use of a communications service is the residential
263 street address or the business street address of the customer.

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

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

269 (17) ~~(15)~~ "Unbundled network element" means a network
270 element, as defined in 47 U.S.C. s. 153(29), to which access is
271 provided on an unbundled basis pursuant to 47 U.S.C. s.
272 251(c) (3).

273 (18) ~~(16)~~ "Private communications service" means a
274 communications service that entitles the subscriber or user to
275 exclusive or priority use of a communications channel or group
276 of channels between or among channel termination points,
277 regardless of the manner in which such channel or channels are
278 connected, and includes switching capacity, extension lines,
279 stations, and any other associated services that ~~which~~ are
280 provided in connection with the use of such channel or channels.

281 (19) ~~(17)~~ (a) "Customer" means:

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

284 2. If the end user of mobile communications services is not
285 the contracting party, the end user of the mobile communications
286 service. This subparagraph only applies for the purpose of
287 determining the place of primary use.

288 (b) "Customer" does not include:

289 1. A reseller of mobile communications services; or

290 2. A serving carrier under an agreement to serve the

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291 customer outside the home service provider's licensed service
292 area.

293 (20)~~(18)~~ "Enhanced zip code" means a United States postal
294 zip code of 9 or more digits.

295 (21)~~(19)~~ "Home service provider" means the facilities-based
296 carrier or reseller with which the customer contracts for the
297 provision of mobile communications services.

298 (22)~~(20)~~ "Licensed service area" means the geographic area
299 in which the home service provider is authorized by law or
300 contract to provide mobile communications service to the
301 customer.

302 (23)~~(21)~~ "Place of primary use" means the street address
303 representative of where the customer's use of the mobile
304 communications service primarily occurs, which must be:

305 (a) The residential street address or the primary business
306 street address of the customer; and

307 (b) Within the licensed service area of the home service
308 provider.

309 (24)~~(22)~~ (a) "Reseller" means a provider who purchases
310 communications services from another communications service
311 provider and then resells, uses as a component part of, or
312 integrates the purchased services into a mobile communications
313 service.

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

318 (25)~~(23)~~ "Serving carrier" means a facilities-based carrier
319 providing mobile communications service to a customer outside a

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320 home service provider's or reseller's licensed service area.

321 (26)-(24) "Video service" means the transmission of video,
322 audio, or other programming service to a purchaser, and the
323 purchaser interaction, if any, required for the selection or use
324 of a programming service, regardless of whether the programming
325 is transmitted over facilities owned or operated by the video
326 service provider or over facilities owned or operated by another
327 dealer of communications services. The term includes point-to-
328 point and point-to-multipoint distribution services through
329 which programming is transmitted or broadcast by microwave or
330 other equipment directly to the purchaser's premises, but does
331 not include direct-to-home satellite service. The term includes
332 basic, extended, premium, pay-per-view, digital video, two-way
333 cable, and music services ~~has the same meaning as that provided~~
334 ~~in s. 610.103.~~

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

337 202.125 Sales of communications services; specified
338 exemptions.—

339 (1) The separately stated sales price of communications
340 services sold to residential households is exempt from the tax
341 imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption does
342 not apply to any residence that constitutes all or part of a
343 transient public lodging establishment as defined in chapter
344 509, any mobile communications service, any video ~~eable~~ service,
345 or any direct-to-home satellite service.

346 Section 4. Paragraph (a) of subsection (2) of section
347 202.16, Florida Statutes, is amended to read:

348 202.16 Payment.—The taxes imposed or administered under

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349 this chapter and chapter 203 shall be collected from all dealers
350 of taxable communications services on the sale at retail in this
351 state of communications services taxable under this chapter and
352 chapter 203. The full amount of the taxes on a credit sale,
353 installment sale, or sale made on any kind of deferred payment
354 plan is due at the moment of the transaction in the same manner
355 as a cash sale.

356 (2) (a) A sale of communications services that are used as a
357 component part of or integrated into a communications service or
358 prepaid calling arrangement for resale, including, but not
359 limited to, carrier-access charges, interconnection charges paid
360 by providers of mobile communication services or other
361 communication services, charges paid by a video cable service
362 provider providers for the purchase of video programming or the
363 transmission of video or other programming by another dealer of
364 communications services, charges for the sale of unbundled
365 network elements, and any other intercompany charges for the use
366 of facilities for providing communications services for resale,
367 must be made in compliance with the rules of the department. A
368 Any person who makes a sale for resale which is not in
369 compliance with these rules is liable for any tax, penalty, and
370 interest due for failing to comply, to be calculated pursuant to
371 s. 202.28(2) (a).

372 Section 5. Paragraph (c) of subsection (3) of section
373 202.18, Florida Statutes, is amended to read:

374 202.18 Allocation and disposition of tax proceeds.—The
375 proceeds of the communications services taxes remitted under
376 this chapter shall be treated as follows:

377 (3)

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378 (c)1. Except as otherwise provided in this paragraph,
379 proceeds of the taxes levied pursuant to s. 202.19, less amounts
380 deducted for costs of administration in accordance with
381 paragraph (b), shall be distributed monthly to the appropriate
382 jurisdictions. The proceeds of taxes imposed pursuant to s.
383 202.19(5) shall be distributed in the same manner as
384 discretionary surtaxes are distributed, in accordance with ss.
385 212.054 and 212.055.

386 2. The department shall make any adjustments to the
387 distributions pursuant to this section which are necessary to
388 reflect the proper amounts due to individual jurisdictions or
389 trust funds. In the event that the department adjusts amounts
390 due to reflect a correction in the situsing of a customer, such
391 adjustment shall be limited to the amount of tax actually
392 collected from such customer by the dealer of communication
393 services.

394 3.a. ~~Notwithstanding the time period specified in s.~~
395 ~~202.22(5),~~ Adjustments in distributions which are necessary to
396 correct misallocations between jurisdictions shall be governed
397 by this subparagraph. If the department determines that
398 misallocations between jurisdictions occurred, it shall provide
399 written notice of such determination to all affected
400 jurisdictions. The notice shall include the amount of the
401 misallocations, the basis upon which the determination was made,
402 data supporting the determination, and the identity of each
403 affected jurisdiction. The notice shall also inform all affected
404 jurisdictions of their authority to enter into a written
405 agreement establishing a method of adjustment as described in
406 sub-subparagraph c.

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407 b. An adjustment affecting a distribution to a jurisdiction
408 which is less than 90 percent of the average monthly
409 distribution to that jurisdiction for the 6 months immediately
410 preceding the department's determination, as reported by all
411 communications services dealers, shall be made in the month
412 immediately following the department's determination that
413 misallocations occurred.

414 c. If an adjustment affecting a distribution to a
415 jurisdiction equals or exceeds 90 percent of the average monthly
416 distribution to that jurisdiction for the 6 months immediately
417 preceding the department's determination, as reported by all
418 communications services dealers, the affected jurisdictions may
419 enter into a written agreement establishing a method of
420 adjustment. If the agreement establishing a method of adjustment
421 provides for payments of local communications services tax
422 monthly distributions, the amount of any such payment agreed to
423 may not exceed the local communications services tax monthly
424 distributions available to the jurisdiction that was allocated
425 amounts in excess of those to which it was entitled. If affected
426 jurisdictions execute a written agreement specifying a method of
427 adjustment, a copy of the written agreement shall be provided to
428 the department no later than the first day of the month
429 following 90 days after the date the department transmits notice
430 of the misallocation. If the department does not receive a copy
431 of the written agreement within the specified time period, an
432 adjustment affecting a distribution to a jurisdiction made
433 pursuant to this sub-subparagraph shall be prorated over a time
434 period that equals the time period over which the misallocations
435 occurred.

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

438 202.195 Proprietary confidential business information;
439 public records exemption.—

440 (1) Proprietary confidential business information obtained
441 from a telecommunications company or from a franchised or
442 certificated video service provider ~~cable company~~ for the
443 purposes of ~~imposing fees for occupying the public rights-of-~~
444 ~~way,~~ assessing the local communications services tax pursuant to
445 s. 202.19, or occupying or regulating the public rights-of-way,
446 held by a local governmental entity, is confidential and exempt
447 from s. 119.07(1) and s. 24(a), Art. I of the State
448 Constitution. Such proprietary confidential business information
449 held by a local governmental entity may be used only for the
450 purposes of ~~imposing such fees,~~ assessing such tax, or
451 regulating such rights-of-way, and may not be used for any other
452 purposes, including, but not limited to, commercial or
453 competitive purposes.

454 (3) ~~Nothing in~~ This exemption does not expand ~~expands~~ the
455 information or documentation that a local governmental entity
456 may properly request under applicable law pursuant to ~~the~~
457 ~~imposition of fees for~~ occupying the rights-of-way, the local
458 communication services tax, or the regulation of its public
459 rights-of-way.

460 Section 7. Paragraph (b) of subsection (2) of section
461 202.20, Florida Statutes, is amended to read:

462 202.20 Local communications services tax conversion rates.—

463 (2)

464 (b) Except as otherwise provided in this subsection, the

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465 term "replaced revenue sources," as used in this section, means
466 the following taxes, charges, fees, or other impositions to the
467 extent that the respective local taxing jurisdictions were
468 authorized to impose them prior to July 1, 2000.

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

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

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

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

476 d. Franchise fees on dealers of communications services
477 which use the public roads or rights-of-way, up to the limit set
478 forth in s. 337.401. For purposes of calculating rates under
479 this section, it is the legislative intent that charter counties
480 be treated as having had the same authority as municipalities to
481 impose franchise fees on recurring local telecommunication
482 service revenues before ~~prior to~~ July 1, 2000. However, the
483 Legislature recognizes that the authority of charter counties to
484 impose such fees is in dispute, and the treatment provided in
485 this section is not an expression of legislative intent that
486 charter counties actually do or do not possess such authority.

487 e. Actual permit fees relating to placing or maintaining
488 facilities in or on public roads or rights-of-way, collected
489 from providers of long-distance, cable, and mobile
490 communications services for the fiscal year ending September 30,
491 1999; however, if a municipality or charter county elects the
492 option to charge permit fees pursuant to s. 337.401(3)(c)1.a.,
493 such fees may ~~shall~~ not be included as a replaced revenue

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494 source.

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

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

500 202.22 Determination of local tax situs.—

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

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

509 (b) The department has determined the misallocations
510 between jurisdictions for all taxes levied pursuant to s. 202.19
511 and collected by the dealer with respect to any tax period being
512 examined by the department; then,

513
514 the dealer of communications services may be held liable to the
515 department for the net aggregate underpayment of any tax, and
516 for including interest and penalties attributable to the net
517 aggregate underpayment of tax, which is due as a result of
518 assigning one or more ~~the~~ service addresses ~~address~~ to an
519 incorrect local taxing jurisdiction. However, the dealer of
520 communications services is not liable for any tax, interest, or
521 penalty under this subsection unless the department has
522 determined the net aggregate underpayment of tax for any tax

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523 period that is being examined, taking into account all
524 underpayments and overpayments for such period or periods ~~to the~~
525 ~~extent that such amount was collected and remitted by the dealer~~
526 ~~of communications services with respect to a tax imposed by~~
527 ~~another local taxing jurisdiction. Upon determining that an~~
528 ~~amount was collected and remitted by a dealer of communications~~
529 ~~services with respect to a tax imposed by another local taxing~~
530 ~~jurisdiction, the department shall adjust the respective amounts~~
531 ~~of the proceeds paid to each such taxing jurisdiction under s.~~
532 ~~202.18 in the month immediately following such determination.~~

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

537 (b) Notwithstanding s. 202.28, if a dealer of
538 communications services:

539 1. Employs a method of assigning service addresses other
540 than as set forth in paragraph (1) (a), paragraph (1) (b), or
541 paragraph (1) (c), the deduction allowed to the dealer of
542 communications services as compensation under s. 202.28 shall be
543 0.25 percent of that portion of the tax due and accounted for
544 and remitted to the department which is attributable to such
545 method of assigning service addresses other than as set forth in
546 paragraph (1) (a), paragraph (1) (b), or paragraph (1) (c).

547 2. Employs a method of assigning service addresses as set
548 forth in paragraph (1) (a), paragraph (1) (b), or paragraph
549 (1) (c), the department may not deny the deduction allowed to the
550 dealer of communications services as compensation allowed under
551 s. 202.28 because the dealer assigned one or more service

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552 addresses to an incorrect local taxing jurisdiction.

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

555 202.231 Provision of information to local taxing
556 jurisdictions.—

557 (3) The gross taxable sales and net tax information
558 contained in the monthly reports required by this section shall
559 be aggregated on a jurisdiction-by-jurisdiction basis, and the
560 aggregate jurisdiction-by-jurisdiction information shall be made
561 available by the department to the public through the
562 department's website for each fiscal year this chapter has been
563 in effect.

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

566 202.24 Limitations on local taxes and fees imposed on
567 dealers of communications services.—

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

570 1. Levying on or collecting from dealers or purchasers of
571 communications services any tax, charge, fee, or other
572 imposition on or with respect to the provision or purchase of
573 communications services.

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

577 3. Adopting or enforcing any provision of any ordinance or
578 agreement to the extent that such provision obligates a dealer
579 of communications services to charge, collect, or pay to the
580 public body a tax, charge, fee, or other imposition.

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581
582 Municipalities and counties may not negotiate those terms and
583 conditions related to franchise fees or the definition of gross
584 revenues or other definitions or methodologies related to the
585 payment or assessment of franchise fees on providers of ~~cable~~ or
586 video services.

587 (c) This subsection does not apply to:

- 588 1. Local communications services taxes levied under this
589 chapter.
- 590 2. Ad valorem taxes levied pursuant to chapter 200.
- 591 3. Business taxes levied under chapter 205.
- 592 4. "911" service charges levied under chapter 365.
- 593 5. Amounts charged for the rental or other use of property
594 owned by a public body which is not in the public rights-of-way
595 to a dealer of communications services for any purpose,
596 including, but not limited to, the placement or attachment of
597 equipment used in the provision of communications services.
- 598 6. Permit fees of general applicability which are not
599 related to placing or maintaining facilities in or on public
600 roads or rights-of-way.
- 601 7. Permit fees related to placing or maintaining facilities
602 in or on public roads or rights-of-way pursuant to s. 337.401.
- 603 8. Any in-kind requirements, institutional networks, or
604 contributions for, or in support of, the use or construction of
605 public, educational, or governmental access facilities allowed
606 under federal law and imposed on providers of ~~cable~~ or video
607 service pursuant to any existing ordinance or an existing
608 franchise agreement granted by each municipality or county,
609 under which ordinance or franchise agreement service is provided

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610 before ~~prior to~~ July 1, 2007, or as permitted under chapter 610.
611 ~~Nothing in~~ This subparagraph does not ~~shall~~ prohibit ~~the ability~~
612 ~~of~~ providers of ~~cable or~~ video service from recovering the ~~to~~
613 ~~recover such~~ expenses as allowed under federal law.

614 9. Special assessments and impact fees.

615 10. Pole attachment fees that are charged by a local
616 government for attachments to utility poles owned by the local
617 government.

618 11. Utility service fees or other similar user fees for
619 utility services.

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

624 Section 11. Paragraph (j) of subsection (3) of section
625 202.26, Florida Statutes, is amended to read:

626 202.26 Department powers.—

627 (3) To administer the tax imposed by this chapter, the
628 department may adopt rules relating to:

629 (j) The types of books and records kept in the regular
630 course of business which must be available during an audit of a
631 dealer's books and records when the dealer has made an
632 allocation or attribution pursuant to the definition of sales
633 prices in s. 202.11(15)(b)8. ~~202.11(13)(b)8.~~ and examples of
634 methods for determining the reasonableness thereof. Books and
635 records kept in the regular course of business include, but are
636 not limited to, general ledgers, price lists, cost records,
637 customer billings, billing system reports, tariffs, and other
638 regulatory filings and rules of regulatory authorities. The ~~Such~~

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639 records may be required to be made available to the department
640 in an electronic format when so kept by the dealer. The dealer
641 may support the allocation of charges with books and records
642 kept in the regular course of business covering the dealer's
643 entire service area, including territories outside this state.
644 During an audit, the department may reasonably require
645 production of any additional books and records found necessary
646 to assist in its determination.

647 Section 12. Paragraph (a) of subsection (1) of section
648 203.01, Florida Statutes, is amended to read:

649 203.01 Tax on gross receipts for utility and communications
650 services.—

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

654 2. A tax is levied on communications services as defined in
655 s. 202.11(1) ~~202.11(2)~~. The ~~Such~~ tax shall be applied to the
656 same services and transactions as are subject to taxation under
657 chapter 202, and to communications services that are subject to
658 the exemption provided in s. 202.125(1). The ~~Such~~ tax shall be
659 applied to the sales price of communications services when sold
660 at retail, as the ~~such~~ terms are defined in s. 202.11, shall be
661 due and payable at the same time as the taxes imposed pursuant
662 to chapter 202, and shall be administered and collected pursuant
663 to the provisions of chapter 202.

664 Section 13. Paragraph (a) of subsection (1) of section
665 610.118, Florida Statutes, is amended to read:

666 610.118 Impairment; court-ordered operations.—

667 (1) If an incumbent cable or video service provider is

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668 required to operate under its existing franchise and is legally
669 prevented by a lawfully issued order of a court of competent
670 jurisdiction from exercising its right to terminate its existing
671 franchise pursuant to the terms of s. 610.105, any
672 certificateholder providing cable service or video service in
673 whole or in part within the service area that is the subject of
674 the incumbent cable or video service provider's franchise shall,
675 for as long as the court order remains in effect, comply with
676 the following franchise terms and conditions as applicable to
677 the incumbent cable or video service provider in the service
678 area:

679 (a) The certificateholder shall pay to the municipality or
680 county:

681 1. Any prospective lump-sum or recurring per-subscriber
682 funding obligations to support public, educational, and
683 governmental access channels or other prospective franchise-
684 required monetary grants related to public, educational, or
685 governmental access facilities equipment and capital costs.
686 Prospective lump-sum payments shall be made on an equivalent
687 per-subscriber basis calculated as follows: the amount of the
688 prospective funding obligations divided by the number of
689 subscribers being served by the incumbent cable service provider
690 at the time of payment, divided by the number of months
691 remaining in the incumbent cable or video service provider's
692 franchise equals the monthly per subscriber amount to be paid by
693 the certificateholder until the expiration or termination of the
694 incumbent cable or video service provider's franchise; and

695 2. If the incumbent cable or video service provider is
696 required to make payments for the funding of an institutional

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697 network, the certificateholder shall pay an amount equal to the
698 incumbent's funding obligations but not to exceed 1 percent of
699 the sales price, as defined in s. 202.11(15) ~~202.11(13)~~, for the
700 taxable monthly retail sales of cable or video programming
701 services the certificateholder received from subscribers in the
702 affected municipality or county. All definitions and exemptions
703 under chapter 202 apply in the determination of taxable monthly
704 retail sales of cable or video programming services.

705 Section 14. Section 624.105, Florida Statutes, is amended
706 to read:

707 624.105 Waiver of customer liability.—Any regulated company
708 as defined in s. 350.111, any electric utility as defined in s.
709 366.02(2), any utility as defined in s. 367.021(12) or s.
710 367.022(2) and (7), and any provider of communications services
711 as defined in s. 202.11(1) ~~202.11(2)~~ may charge for and include
712 an optional waiver of liability provision in their customer
713 contracts under which the entity agrees to waive all or a
714 portion of the customer's liability for service from the entity
715 for a defined period in the event of the customer's call to
716 active military service, death, disability, involuntary
717 unemployment, qualification for family leave, or similar
718 qualifying event or condition. Such provisions may not be
719 effective in the customer's contract with the entity unless
720 affirmatively elected by the customer. No such provision shall
721 constitute insurance so long as the provision is a contract
722 between the entity and its customer.

723 Section 15. The following changes made in this act are
724 intended to be remedial in nature and apply retroactively, but
725 do not provide a basis for an assessment of any tax not paid or

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726 create a right to a refund or credit of any tax paid before the
727 general effective date of this act:

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

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

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