

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 a definition for the term
7 "Internet access service"; revising the definitions of
8 the terms "communication services," "information
9 service," "sales price," "service address," and "video
10 service"; amending ss. 202.125, 202.16, and 202.24,
11 F.S.; conforming provisions to changes in terminology;
12 amending s. 202.18, F.S.; removing a cross-reference
13 to conform; amending s. 202.22, F.S.; revising
14 provisions relating to a communications services
15 dealer's liability for tax underpayments that result
16 from the incorrect assignment of service addresses to
17 local taxing jurisdictions and providing requirements
18 and conditions with respect thereto; prohibiting the
19 Department of Revenue from denying a dealer of
20 communications services a deduction of a specified
21 amount as a collection allowance under certain
22 circumstances; amending s. 202.231, F.S.; requiring
23 the Department of Revenue to aggregate monthly and
24 make available to the public on a jurisdiction-by-
25 jurisdiction basis certain sales and net tax
26 information; amending ss. 203.01 and 624.105, F.S.;
27 conforming cross-references; providing for certain
28 retroactive effect; providing effective dates.

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

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 economic vitality of this increasingly important industry because it restructures state and local taxes and fees to account for the impact of federal legislation, industry deregulation, and the multitude of convergence of service offerings that is now taking place among providers offering functionally equivalent communications services in today's marketplace. This chapter promotes the increased competition that accompanies deregulation by embracing a competitively neutral tax policy that will free consumers to choose a provider based on tax-neutral considerations. This chapter further spurs new competition by simplifying an extremely complicated state and local tax and fee system. Simplification will lower the cost of collecting taxes and fees, increase service availability, and place downward pressure on price. Newfound administrative efficiency is demonstrated by a reduction in the number of returns that a provider must file each month. By restructuring separate taxes and fees into a revenue-neutral communications

57 | services tax centrally administered by the department, this
 58 | chapter will ensure that the growth of the industry is
 59 | unimpaired by excessive governmental regulation. The tax imposed
 60 | pursuant to this chapter is a replacement for taxes and fees
 61 | previously imposed and is not a new tax. The taxes imposed and
 62 | administered pursuant to this chapter are of general application
 63 | and are imposed in a uniform, consistent, and nondiscriminatory
 64 | manner.

65 | Section 2. Section 202.11, Florida Statutes, is amended to
 66 | read:

67 | 202.11 Definitions.—As used in this chapter, the term:

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

81 | (1)(2) "Communications services" means the transmission,
 82 | conveyance, or routing of voice, data, audio, video, or any
 83 | other information or signals, including video cable services, to
 84 | a point, or between or among points, by or through any

85 | electronic, radio, satellite, cable, optical, microwave, or
 86 | other medium or method now in existence or hereafter devised,
 87 | regardless of the protocol used for such transmission or
 88 | conveyance. The term includes such transmission, conveyance, or
 89 | routing in which computer processing applications are used to
 90 | act on the form, code, or protocol of the content for purposes
 91 | of transmission, conveyance, or routing without regard to
 92 | whether such service is referred to as voice-over-Internet-
 93 | protocol services or is classified by the Federal Communications
 94 | Commission as enhanced or value-added. The term does not
 95 | include:

- 96 | (a) Information services.
- 97 | (b) Installation or maintenance of wiring or equipment on
 98 | a customer's premises.
- 99 | (c) The sale or rental of tangible personal property.
- 100 | (d) The sale of advertising, including, but not limited
 101 | to, directory advertising.
- 102 | (e) Bad check charges.
- 103 | (f) Late payment charges.
- 104 | (g) Billing and collection services.
- 105 | (h) Internet access service, electronic mail service,
 106 | electronic bulletin board service, or similar online computer
 107 | services.

108 | (2)~~(3)~~ "Dealer" means a person registered with the
 109 | department as a provider of communications services in this
 110 | state.

111 | (3)~~(4)~~ "Department" means the Department of Revenue.

112 | (4)~~(5)~~ "Direct-to-home satellite service" has the meaning

113 ascribed in the Communications Act of 1934, 47 U.S.C. s. 303(v).

114 (5)~~(6)~~ "Information service" means the offering of a
115 capability for generating, acquiring, storing, transforming,
116 processing, retrieving, using, or making available information
117 via communications services, including, but not limited to,
118 electronic publishing, web-hosting service, and end-user 900
119 number service. The term does not include ~~any video, audio, or~~
120 ~~other programming service that uses point-to-multipoint~~
121 ~~distribution by which programming is delivered, transmitted, or~~
122 ~~broadcast by any means, including any interaction that may be~~
123 ~~necessary for selecting and using the service, regardless of~~
124 ~~whether the programming is delivered, transmitted, or broadcast~~
125 ~~over facilities owned or operated by the seller or another, or~~
126 ~~whether denominated as cable service or as basic, extended,~~
127 ~~premium, pay-per-view, digital, music, or two-way cable service.~~

128 (6) "Internet access service" has the same meaning as
129 ascribed to the term "Internet access" by s. 1105(5) of the
130 Internet Tax Freedom Act, 47 U.S.C. s. 151 note, as amended by
131 Pub. L. No. 110-108.

132 (7) "Mobile communications service" means ~~commercial~~
133 mobile ~~radio~~ service, as defined in 47 C.F.R. s. 20.3 as in
134 effect on June 1, 1999. The term does not include air-ground
135 radiotelephone service as defined in 47 C.F.R. s. 22.99 as in
136 effect on June 1, 1999.

137 (8) "Person" has the meaning ascribed in s. 212.02.

138 (9) "Prepaid calling arrangement" means the separately
139 stated retail sale by advance payment of communications services
140 that consist exclusively of telephone calls originated by using

141 an access number, authorization code, or other means that may be
 142 manually, electronically, or otherwise entered, and that are
 143 sold in predetermined units or dollars of which the number
 144 declines with use in a known amount.

145 (10) "Purchaser" means the person paying for or obligated
 146 to pay for communications services.

147 (11) "Retail sale" means the sale of communications
 148 services for any purpose other than for resale or for use as a
 149 component part of or for integration into communications
 150 services to be resold in the ordinary course of business.
 151 However, any sale for resale must comply with s. 202.16(2) and
 152 the rules adopted thereunder.

153 (12) "Sale" means the provision of communications services
 154 for a consideration.

155 (13) "Sales price" means the total amount charged in money
 156 or other consideration by a dealer for the sale of the right or
 157 privilege of using communications services in this state,
 158 including any property or other service, not described in
 159 paragraph (a), which is ~~services that are~~ part of the sale and
 160 for which the charge is not separately itemized on a customer's
 161 bill or separately allocated under subparagraph (b)8. The sales
 162 price of communications services may ~~shall~~ not be reduced by any
 163 separately identified components of the charge which ~~that~~
 164 constitute expenses of the dealer, including, but not limited
 165 to, sales taxes on goods or services purchased by the dealer,
 166 property taxes, taxes measured by net income, and universal-
 167 service fund fees.

168 (a) The sales price of communications services includes

169 ~~shall include~~, whether or not separately stated, charges for any
 170 of the following:

- 171 1. The connection, movement, change, or termination of
- 172 communications services.
- 173 2. The detailed billing of communications services.
- 174 3. The sale of directory listings in connection with a
- 175 communications service.
- 176 4. Central office and custom calling features.
- 177 5. Voice mail and other messaging service.
- 178 6. Directory assistance.
- 179 7. The service of sending or receiving a document commonly
- 180 referred to as a facsimile or "fax," except when performed
- 181 during the course of providing professional or advertising
- 182 services.

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

- 185 1. An ~~Any~~ excise tax, sales tax, or similar tax levied by
- 186 the United States or any state or local government on the
- 187 purchase, sale, use, or consumption of any communications
- 188 service, including, but not limited to, a ~~any~~ tax imposed under
- 189 this chapter or chapter 203 which is permitted or required to be
- 190 added to the sales price of such service, if the tax is stated
- 191 separately.
- 192 2. A ~~Any~~ fee or assessment levied by the United States or
- 193 any state or local government, including, but not limited to,
- 194 regulatory fees and emergency telephone surcharges, which must
- 195 ~~is required to~~ be added to the price of the ~~such~~ service if the
- 196 fee or assessment is separately stated.

197 3. Communications services paid for by inserting coins
198 into coin-operated communications devices available to the
199 public.

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

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

204 6. A dealer's internal use of communications services in
205 connection with its business of providing communications
206 services.

207 7. Charges for property or other services that are not
208 part of the sale of communications services, if such charges are
209 stated separately from the charges for communications services.

210 8. ~~To the extent required by federal law,~~ Charges for
211 goods or services that are not subject to tax under this
212 chapter, including Internet access services but excluding any
213 item described in paragraph (a), that ~~which~~ are not separately
214 itemized on a customer's bill, but that ~~which~~ can be reasonably
215 identified from the selling dealer's books and records kept in
216 the regular course of business. The dealer may support the
217 allocation of charges with books and records kept in the regular
218 course of business covering the dealer's entire service area,
219 including territories outside this state.

220 (14) "Service address" means:

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

222 1. The location of the communications equipment from which
223 communications services originate or at which communications
224 services are received by the customer;

225 2. In the case of a communications service paid through a
 226 credit or payment mechanism that does not relate to a service
 227 address, such as a bank, travel, debit, or credit card, and in
 228 the case of third-number and calling-card calls, the term
 229 "service address" means the address of the central office, as
 230 determined by the area code and the first three digits of the
 231 seven-digit originating telephone number; or

232 3. If the location of the equipment described in
 233 subparagraph 1. is not known and subparagraph 2. is
 234 inapplicable, the term "service address" means the location of
 235 the customer's primary use of the communications service. For
 236 purposes of this subparagraph, the location of the customer's
 237 primary use of a communications service is the residential
 238 street address or the business street address of the customer.

239 (b) In the case of video ~~able~~ services and direct-to-home
 240 satellite services, the location where the customer receives the
 241 services in this state.

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

244 (15) "Unbundled network element" means a network element,
 245 as defined in 47 U.S.C. s. 153(29), to which access is provided
 246 on an unbundled basis pursuant to 47 U.S.C. s. 251(c)(3).

247 (16) "Private communications service" means a
 248 communications service that entitles the subscriber or user to
 249 exclusive or priority use of a communications channel or group
 250 of channels between or among channel termination points,
 251 regardless of the manner in which such channel or channels are
 252 connected, and includes switching capacity, extension lines,

253 stations, and any other associated services that ~~which~~ are
 254 provided in connection with the use of such channel or channels.

255 (17) (a) "Customer" means:

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

258 2. If the end user of mobile communications services is
 259 not the contracting party, the end user of the mobile
 260 communications service. This subparagraph only applies for the
 261 purpose of determining the place of primary use.

262 (b) "Customer" does not include:

263 1. A reseller of mobile communications services; or

264 2. A serving carrier under an agreement to serve the
 265 customer outside the home service provider's licensed service
 266 area.

267 (18) "Enhanced zip code" means a United States postal zip
 268 code of 9 or more digits.

269 (19) "Home service provider" means the facilities-based
 270 carrier or reseller with which the customer contracts for the
 271 provision of mobile communications services.

272 (20) "Licensed service area" means the geographic area in
 273 which the home service provider is authorized by law or contract
 274 to provide mobile communications service to the customer.

275 (21) "Place of primary use" means the street address
 276 representative of where the customer's use of the mobile
 277 communications service primarily occurs, which must be:

278 (a) The residential street address or the primary business
 279 street address of the customer; and

280 (b) Within the licensed service area of the home service

281 provider.

282 (22) (a) "Reseller" means a provider who purchases
 283 communications services from another communications service
 284 provider and then resells, uses as a component part of, or
 285 integrates the purchased services into a mobile communications
 286 service.

287 (b) "Reseller" does not include a serving carrier with
 288 which a home service provider arranges for the services to its
 289 customers outside the home service provider's licensed service
 290 area.

291 (23) "Serving carrier" means a facilities-based carrier
 292 providing mobile communications service to a customer outside a
 293 home service provider's or reseller's licensed service area.

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

308 Section 3. Subsection (1) of section 202.125, Florida

309 Statutes, is amended to read:

310 202.125 Sales of communications services; specified
 311 exemptions.—

312 (1) The separately stated sales price of communications
 313 services sold to residential households is exempt from the tax
 314 imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption does
 315 not apply to any residence that constitutes all or part of a
 316 transient public lodging establishment as defined in chapter
 317 509, any mobile communications service, any video ~~cable~~ service,
 318 or any direct-to-home satellite service.

319 Section 4. Paragraph (a) of subsection (2) of section
 320 202.16, Florida Statutes, is amended to read:

321 202.16 Payment.—The taxes imposed or administered under
 322 this chapter and chapter 203 shall be collected from all dealers
 323 of taxable communications services on the sale at retail in this
 324 state of communications services taxable under this chapter and
 325 chapter 203. The full amount of the taxes on a credit sale,
 326 installment sale, or sale made on any kind of deferred payment
 327 plan is due at the moment of the transaction in the same manner
 328 as a cash sale.

329 (2) (a) A sale of communications services that are used as
 330 a component part of or integrated into a communications service
 331 or prepaid calling arrangement for resale, including, but not
 332 limited to, carrier-access charges, interconnection charges paid
 333 by providers of mobile communication services or other
 334 communication services, charges paid by a video ~~cable~~ service
 335 provider ~~providers~~ for the purchase of video programming or the
 336 transmission of video or other programming by another dealer of

337 | communications services, charges for the sale of unbundled
 338 | network elements, and any other intercompany charges for the use
 339 | of facilities for providing communications services for resale,
 340 | must be made in compliance with the rules of the department. A
 341 | ~~Any~~ person who makes a sale for resale which is not in
 342 | compliance with these rules is liable for any tax, penalty, and
 343 | interest due for failing to comply, to be calculated pursuant to
 344 | s. 202.28(2)(a).

345 | Section 5. Paragraph (c) of subsection (3) of section
 346 | 202.18, Florida Statutes, is amended to read:

347 | 202.18 Allocation and disposition of tax proceeds.—The
 348 | proceeds of the communications services taxes remitted under
 349 | this chapter shall be treated as follows:

350 | (3)

351 | (c)1. Except as otherwise provided in this paragraph,
 352 | proceeds of the taxes levied pursuant to s. 202.19, less amounts
 353 | deducted for costs of administration in accordance with
 354 | paragraph (b), shall be distributed monthly to the appropriate
 355 | jurisdictions. The proceeds of taxes imposed pursuant to s.
 356 | 202.19(5) shall be distributed in the same manner as
 357 | discretionary surtaxes are distributed, in accordance with ss.
 358 | 212.054 and 212.055.

359 | 2. The department shall make any adjustments to the
 360 | distributions pursuant to this section which are necessary to
 361 | reflect the proper amounts due to individual jurisdictions or
 362 | trust funds. In the event that the department adjusts amounts
 363 | due to reflect a correction in the situsing of a customer, such
 364 | adjustment shall be limited to the amount of tax actually

365 collected from such customer by the dealer of communication
366 services.

367 3.a. ~~Notwithstanding the time period specified in s.~~
368 ~~202.22(5),~~ Adjustments in distributions which are necessary to
369 correct misallocations between jurisdictions shall be governed
370 by this subparagraph. If the department determines that
371 misallocations between jurisdictions occurred, it shall provide
372 written notice of such determination to all affected
373 jurisdictions. The notice shall include the amount of the
374 misallocations, the basis upon which the determination was made,
375 data supporting the determination, and the identity of each
376 affected jurisdiction. The notice shall also inform all affected
377 jurisdictions of their authority to enter into a written
378 agreement establishing a method of adjustment as described in
379 sub-subparagraph c.

380 b. An adjustment affecting a distribution to a
381 jurisdiction which is less than 90 percent of the average
382 monthly distribution to that jurisdiction for the 6 months
383 immediately preceding the department's determination, as
384 reported by all communications services dealers, shall be made
385 in the month immediately following the department's
386 determination that misallocations occurred.

387 c. If an adjustment affecting a distribution to a
388 jurisdiction equals or exceeds 90 percent of the average monthly
389 distribution to that jurisdiction for the 6 months immediately
390 preceding the department's determination, as reported by all
391 communications services dealers, the affected jurisdictions may
392 enter into a written agreement establishing a method of

393 adjustment. If the agreement establishing a method of adjustment
 394 provides for payments of local communications services tax
 395 monthly distributions, the amount of any such payment agreed to
 396 may not exceed the local communications services tax monthly
 397 distributions available to the jurisdiction that was allocated
 398 amounts in excess of those to which it was entitled. If affected
 399 jurisdictions execute a written agreement specifying a method of
 400 adjustment, a copy of the written agreement shall be provided to
 401 the department no later than the first day of the month
 402 following 90 days after the date the department transmits notice
 403 of the misallocation. If the department does not receive a copy
 404 of the written agreement within the specified time period, an
 405 adjustment affecting a distribution to a jurisdiction made
 406 pursuant to this sub-subparagraph shall be prorated over a time
 407 period that equals the time period over which the misallocations
 408 occurred.

409 Section 6. Subsections (5) and (6) of section 202.22,
 410 Florida Statutes, are amended to read:

411 202.22 Determination of local tax situs.—

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

416 (a) The dealer's failure to use one or more of such
 417 methods results in a net aggregate underpayment of all taxes
 418 levied pursuant to s. 202.19 with respect to one or more tax
 419 periods that are being examined by the department under the
 420 provisions of this chapter; and

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

425
426 the dealer of communications services may be held liable to the
427 department for the net aggregate underpayment of any tax, and
428 for including interest and penalties attributable to the net
429 aggregate underpayment of tax, which is due as a result of
430 assigning one or more the service addresses address to an
431 incorrect local taxing jurisdiction. Subject to the provisions
432 of ss. 202.22(8), 202.34, and 202.35(3) However, the dealer of
433 communications services is not liable for any tax, interest, or
434 penalty under this subsection unless the department has
435 determined the net aggregate underpayment of tax for any tax
436 period that is being examined, taking into account all
437 underpayments and overpayments for such period or periods to the
438 extent that such amount was collected and remitted by the dealer
439 of communications services with respect to a tax imposed by
440 another local taxing jurisdiction. Upon determining that an
441 amount was collected and remitted by a dealer of communications
442 services with respect to a tax imposed by another local taxing
443 jurisdiction, the department shall adjust the respective amounts
444 of the proceeds paid to each such taxing jurisdiction under s.
445 202.18 in the month immediately following such determination.

446 (6) (a) Pursuant to rules adopted by the department, each
447 dealer of communications services must notify the department of
448 the methods it intends to employ for determining the local

449 taxing jurisdiction in which service addresses are located.

450 (b) Notwithstanding s. 202.28, if a dealer of
451 communications services:

452 1. Employs a method of assigning service addresses other
453 than as set forth in paragraph (1)(a), paragraph (1)(b), or
454 paragraph (1)(c), the deduction allowed to the dealer of
455 communications services as compensation under s. 202.28 shall be
456 0.25 percent of that portion of the tax due and accounted for
457 and remitted to the department which is attributable to such
458 method of assigning service addresses other than as set forth in
459 paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c).

460 2. Employs a method of assigning service addresses as set
461 forth in paragraph (1)(a), paragraph (1)(b), or paragraph
462 (1)(c), the department may not deny the deduction allowed to the
463 dealer of communications services as compensation allowed under
464 s. 202.28 because the dealer assigned one or more service
465 addresses to an incorrect local taxing jurisdiction.

466 Section 7. Subsection (3) is added to section 202.231,
467 Florida Statutes, to read:

468 202.231 Provision of information to local taxing
469 jurisdictions.—

470 (3) The gross taxable sales and the total net amount
471 transferred to the jurisdiction, showing the net taxes remitted
472 by dealers less the administrative fees deducted by the
473 department contained in the monthly reports required by this
474 section, shall be aggregated on a jurisdiction-by-jurisdiction
475 basis, and the aggregate jurisdiction-by-jurisdiction
476 information shall be made available by the department to the

477 public through the department's website for each fiscal year
 478 this chapter has been in effect.

479 Section 8. Paragraphs (a) and (c) of subsection (2) of
 480 section 202.24, Florida Statutes, are amended to read:

481 202.24 Limitations on local taxes and fees imposed on
 482 dealers of communications services.-

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

485 1. Levying on or collecting from dealers or purchasers of
 486 communications services any tax, charge, fee, or other
 487 imposition on or with respect to the provision or purchase of
 488 communications services.

489 2. Requiring any dealer of communications services to
 490 enter into or extend the term of a franchise or other agreement
 491 that requires the payment of a tax, charge, fee, or other
 492 imposition.

493 3. Adopting or enforcing any provision of any ordinance or
 494 agreement to the extent that such provision obligates a dealer
 495 of communications services to charge, collect, or pay to the
 496 public body a tax, charge, fee, or other imposition.

497
 498 Municipalities and counties may not negotiate those terms and
 499 conditions related to franchise fees or the definition of gross
 500 revenues or other definitions or methodologies related to the
 501 payment or assessment of franchise fees on providers of ~~cable or~~
 502 video services.

503 (c) This subsection does not apply to:

504 1. Local communications services taxes levied under this

- 505 chapter.
- 506 2. Ad valorem taxes levied pursuant to chapter 200.
- 507 3. Business taxes levied under chapter 205.
- 508 4. "911" service charges levied under chapter 365.
- 509 5. Amounts charged for the rental or other use of property
- 510 owned by a public body which is not in the public rights-of-way
- 511 to a dealer of communications services for any purpose,
- 512 including, but not limited to, the placement or attachment of
- 513 equipment used in the provision of communications services.
- 514 6. Permit fees of general applicability which are not
- 515 related to placing or maintaining facilities in or on public
- 516 roads or rights-of-way.
- 517 7. Permit fees related to placing or maintaining
- 518 facilities in or on public roads or rights-of-way pursuant to s.
- 519 337.401.
- 520 8. Any in-kind requirements, institutional networks, or
- 521 contributions for, or in support of, the use or construction of
- 522 public, educational, or governmental access facilities allowed
- 523 under federal law and imposed on providers of ~~cable or~~ video
- 524 service pursuant to any existing ordinance or an existing
- 525 franchise agreement granted by each municipality or county,
- 526 under which ordinance or franchise agreement service is provided
- 527 before ~~prior to~~ July 1, 2007, or as permitted under chapter 610.
- 528 ~~Nothing in~~ This subparagraph does not ~~shall~~ prohibit ~~the ability~~
- 529 ~~of~~ providers of ~~cable or~~ video service from recovering the ~~to~~
- 530 ~~recover such~~ expenses as allowed under federal law.
- 531 9. Special assessments and impact fees.
- 532 10. Pole attachment fees that are charged by a local

533 government for attachments to utility poles owned by the local
 534 government.

535 11. Utility service fees or other similar user fees for
 536 utility services.

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

541 Section 9. Paragraph (a) of subsection (1) of section
 542 203.01, Florida Statutes, is amended to read:

543 203.01 Tax on gross receipts for utility and
 544 communications services.—

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

548 2. A tax is levied on communications services as defined
 549 in s. 202.11(1) ~~202.11(2)~~. The ~~Such~~ tax shall be applied to the
 550 same services and transactions as are subject to taxation under
 551 chapter 202, and to communications services that are subject to
 552 the exemption provided in s. 202.125(1). The ~~Such~~ tax shall be
 553 applied to the sales price of communications services when sold
 554 at retail, as the ~~such~~ terms are defined in s. 202.11, shall be
 555 due and payable at the same time as the taxes imposed pursuant
 556 to chapter 202, and shall be administered and collected pursuant
 557 to the provisions of chapter 202.

558 Section 10. Section 624.105, Florida Statutes, is amended
 559 to read:

560 624.105 Waiver of customer liability.—Any regulated

561 company as defined in s. 350.111, any electric utility as
562 defined in s. 366.02(2), any utility as defined in s.
563 367.021(12) or s. 367.022(2) and (7), and any provider of
564 communications services as defined in s. 202.11(1) ~~202.11(2)~~ may
565 charge for and include an optional waiver of liability provision
566 in their customer contracts under which the entity agrees to
567 waive all or a portion of the customer's liability for service
568 from the entity for a defined period in the event of the
569 customer's call to active military service, death, disability,
570 involuntary unemployment, qualification for family leave, or
571 similar qualifying event or condition. Such provisions may not
572 be effective in the customer's contract with the entity unless
573 affirmatively elected by the customer. No such provision shall
574 constitute insurance so long as the provision is a contract
575 between the entity and its customer.

576 Section 11. The following changes made in this act are
577 intended to be remedial in nature and apply retroactively, but
578 do not provide a basis for an assessment of any tax not paid or
579 create a right to a refund or credit of any tax paid before the
580 general effective date of this act:

581 (1) The changes made in section 2 of this act to
582 subsection (13) of s. 202.11, Florida Statutes.

583 (2) The changes made in section 6 of this act to s.
584 202.22, Florida Statutes.

585 Section 12. Except as otherwise expressly provided in this
586 act, this act shall take effect July 1, 2012.