

1 A bill to be entitled
 2 An act relating to taxation of Internet video service;
 3 amending s. 202.11, F.S.; redefining the term
 4 "communications services" to exclude Internet video
 5 service; defining the term "Internet video service";
 6 redefining the term "video service" to exclude
 7 Internet video service; amending s. 202.24, F.S.;
 8 prohibiting, except under certain circumstances,
 9 public bodies from levying on or collecting from
 10 sellers or purchasers of Internet video services any
 11 tax, charge, fee, or other imposition on or with
 12 respect to the provision or purchase of Internet video
 13 services; amending ss. 202.26, 212.05, and 610.118,
 14 F.S.; conforming cross-references; providing an
 15 effective date.

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

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 19 Section 1. Paragraph (i) is added to subsection (1) of
 20 section 202.11, Florida Statutes, present subsections (7)
 21 through (24) of that section are renumbered as subsections (8)
 22 through (25), respectively, a new subsection (7) is added to
 23 that section, and present subsection (24) of that section is
 24 amended, to read:

25 202.11 Definitions.—As used in this chapter, the term:

26 (1) "Communications services" means the transmission,
 27 conveyance, or routing of voice, data, audio, video, or any
 28 other information or signals, including video services, to a
 29 point, or between or among points, by or through any electronic,
 30 radio, satellite, cable, optical, microwave, or other medium or
 31 method now in existence or hereafter devised, regardless of the
 32 protocol used for such transmission or conveyance. The term
 33 includes such transmission, conveyance, or routing in which
 34 computer processing applications are used to act on the form,
 35 code, or protocol of the content for purposes of transmission,
 36 conveyance, or routing without regard to whether such service is
 37 referred to as voice-over-Internet-protocol services or is
 38 classified by the Federal Communications Commission as enhanced
 39 or value-added. The term does not include:

40 (i) Internet video service.

41 (7) "Internet video service" means a subscription video
 42 programming service received by the end user customer by means
 43 of a wired or wireless Internet connection.

44 ~~(25)-(24)~~ "Video service" means the transmission of video,
 45 audio, or other programming service to a purchaser, and the
 46 purchaser interaction, if any, required for the selection or use
 47 of a programming service, regardless of whether the programming
 48 is transmitted over facilities owned or operated by the video
 49 service provider or over facilities owned or operated by another
 50 dealer of communications services. The term includes point-to-

51 point and point-to-multipoint distribution services through
52 which programming is transmitted or broadcast by microwave or
53 other equipment directly to the purchaser's premises, but does
54 not include direct-to-home satellite service or Internet video
55 service. The term includes basic, extended, premium, pay-per-
56 view, digital video, two-way cable, and music services.

57 Section 2. Paragraph (a) of subsection (2) of section
58 202.24, Florida Statutes, is amended to read:

59 202.24 Limitations on local taxes and fees imposed on
60 dealers of communications services.—

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

63 1. Levying on or collecting from dealers or purchasers of
64 communications services any tax, charge, fee, or other
65 imposition on or with respect to the provision or purchase of
66 communications services.

67 2. Requiring any dealer of communications services to
68 enter into or extend the term of a franchise or other agreement
69 that requires the payment of a tax, charge, fee, or other
70 imposition.

71 3. Adopting or enforcing any provision of any ordinance or
72 agreement to the extent that such provision obligates a dealer
73 of communications services to charge, collect, or pay to the
74 public body a tax, charge, fee, or other imposition.

75 4. Levying on or collecting from sellers or purchasers of

76 | Internet video service any tax, charge, fee, or other imposition
 77 | on or with respect to the provision or purchase of Internet
 78 | video service.

79 |
 80 | Municipalities and counties may not negotiate those terms and
 81 | conditions related to franchise fees or the definition of gross
 82 | revenues or other definitions or methodologies related to the
 83 | payment or assessment of franchise fees on providers of video
 84 | services.

85 | Section 3. Paragraph (j) of subsection (3) of section
 86 | 202.26, Florida Statutes, is amended to read:

87 | 202.26 Department powers.—

88 | (3) To administer the tax imposed by this chapter, the
 89 | department may adopt rules relating to:

90 | (j) The types of books and records kept in the regular
 91 | course of business which must be available during an audit of a
 92 | dealer's books and records when the dealer has made an
 93 | allocation or attribution pursuant to the definition of sales
 94 | prices in s. 202.11(14)(b)8. ~~s. 202.11(13)(b)8.~~ and examples of
 95 | methods for determining the reasonableness thereof. Books and
 96 | records kept in the regular course of business include, but are
 97 | not limited to, general ledgers, price lists, cost records,
 98 | customer billings, billing system reports, tariffs, and other
 99 | regulatory filings and rules of regulatory authorities. Such
 100 | records may be required to be made available to the department

101 in an electronic format when so kept by the dealer. The dealer
 102 may support the allocation of charges with books and records
 103 kept in the regular course of business covering the dealer's
 104 entire service area, including territories outside this state.
 105 During an audit, the department may reasonably require
 106 production of any additional books and records found necessary
 107 to assist in its determination.

108 Section 4. Paragraph (e) of subsection (1) of section
 109 212.05, Florida Statutes, is amended to read:

110 212.05 Sales, storage, use tax.—It is hereby declared to
 111 be the legislative intent that every person is exercising a
 112 taxable privilege who engages in the business of selling
 113 tangible personal property at retail in this state, including
 114 the business of making mail order sales, or who rents or
 115 furnishes any of the things or services taxable under this
 116 chapter, or who stores for use or consumption in this state any
 117 item or article of tangible personal property as defined herein
 118 and who leases or rents such property within the state.

119 (1) For the exercise of such privilege, a tax is levied on
 120 each taxable transaction or incident, which tax is due and
 121 payable as follows:

122 (e)1. At the rate of 6 percent on charges for:

123 a. Prepaid calling arrangements. The tax on charges for
 124 prepaid calling arrangements shall be collected at the time of
 125 sale and remitted by the selling dealer.

126 (I) "Prepaid calling arrangement" has the same meaning as
 127 provided in s. 202.11.

128 (II) If the sale or recharge of the prepaid calling
 129 arrangement does not take place at the dealer's place of
 130 business, it shall be deemed to have taken place at the
 131 customer's shipping address or, if no item is shipped, at the
 132 customer's address or the location associated with the
 133 customer's mobile telephone number.

134 (III) The sale or recharge of a prepaid calling
 135 arrangement shall be treated as a sale of tangible personal
 136 property for purposes of this chapter, regardless of whether a
 137 tangible item evidencing such arrangement is furnished to the
 138 purchaser, and such sale within this state subjects the selling
 139 dealer to the jurisdiction of this state for purposes of this
 140 subsection.

141 (IV) No additional tax under this chapter or chapter 202
 142 is due or payable if a purchaser of a prepaid calling
 143 arrangement who has paid tax under this chapter on the sale or
 144 recharge of such arrangement applies one or more units of the
 145 prepaid calling arrangement to obtain communications services as
 146 described in s. 202.11(10)(b)3. ~~s. 202.11(9)(b)3.~~, other
 147 services that are not communications services, or products.

148 b. The installation of telecommunication and telegraphic
 149 equipment.

150 c. Electrical power or energy, except that the tax rate

151 for charges for electrical power or energy is 4.35 percent.
152 Charges for electrical power and energy do not include taxes
153 imposed under ss. 166.231 and 203.01(1)(a)3.

154 2. Section 212.17(3), regarding credit for tax paid on
155 charges subsequently found to be worthless, is equally
156 applicable to any tax paid under this section on charges for
157 prepaid calling arrangements, telecommunication or telegraph
158 services, or electric power subsequently found to be
159 uncollectible. As used in this paragraph, the term "charges"
160 does not include any excise or similar tax levied by the Federal
161 Government, a political subdivision of this state, or a
162 municipality upon the purchase, sale, or recharge of prepaid
163 calling arrangements or upon the purchase or sale of
164 telecommunication, television system program, or telegraph
165 service or electric power, which tax is collected by the seller
166 from the purchaser.

167 Section 5. Paragraph (a) of subsection (1) of section
168 610.118, Florida Statutes, is amended to read:

169 610.118 Impairment; court-ordered operations.—

170 (1) If an incumbent cable or video service provider is
171 required to operate under its existing franchise and is legally
172 prevented by a lawfully issued order of a court of competent
173 jurisdiction from exercising its right to terminate its existing
174 franchise pursuant to the terms of s. 610.105, any
175 certificateholder providing cable service or video service in

176 whole or in part within the service area that is the subject of
177 the incumbent cable or video service provider's franchise shall,
178 for as long as the court order remains in effect, comply with
179 the following franchise terms and conditions as applicable to
180 the incumbent cable or video service provider in the service
181 area:

182 (a) The certificateholder shall pay to the municipality or
183 county:

184 1. Any prospective lump-sum or recurring per-subscriber
185 funding obligations to support public, educational, and
186 governmental access channels or other prospective franchise-
187 required monetary grants related to public, educational, or
188 governmental access facilities equipment and capital costs.
189 Prospective lump-sum payments shall be made on an equivalent
190 per-subscriber basis calculated as follows: the amount of the
191 prospective funding obligations divided by the number of
192 subscribers being served by the incumbent cable service provider
193 at the time of payment, divided by the number of months
194 remaining in the incumbent cable or video service provider's
195 franchise equals the monthly per subscriber amount to be paid by
196 the certificateholder until the expiration or termination of the
197 incumbent cable or video service provider's franchise; and

198 2. If the incumbent cable or video service provider is
199 required to make payments for the funding of an institutional
200 network, the certificateholder shall pay an amount equal to the

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201 incumbent's funding obligations but not to exceed 1 percent of
202 the sales price, as defined in s. 202.11(14) ~~s. 202.11(13)~~, for
203 the taxable monthly retail sales of cable or video programming
204 services the certificateholder received from subscribers in the
205 affected municipality or county. All definitions and exemptions
206 under chapter 202 apply in the determination of taxable monthly
207 retail sales of cable or video programming services.

208 Section 6. This act shall take effect July 1, 2017.

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