

1 A bill to be entitled
2 An act relating to taxation of Internet video
3 services; amending s. 202.11, F.S.; providing and
4 revising definitions to exclude Internet video
5 services from the definition of communications
6 services; amending s. 202.24, F.S.; prohibiting public
7 bodies from levying and collecting specified taxes,
8 fees, charges, or other impositions relating to
9 Internet video services; amending ss. 202.26, 212.05,
10 and 610.118, F.S.; conforming cross-references;
11 providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsections (7) through (24) of section 202.11,
16 Florida Statutes, are renumbered as subsections (8) through
17 (25), respectively, present subsection (24) is amended,
18 paragraph (i) is added to subsection (1), and a new subsection
19 (7) is added to that section, to read:

20 202.11 Definitions.—As used in this chapter, the term:

21 (1) "Communications services" means the transmission,
22 conveyance, or routing of voice, data, audio, video, or any
23 other information or signals, including video services, to a
24 point, or between or among points, by or through any electronic,
25 radio, satellite, cable, optical, microwave, or other medium or

26 method now in existence or hereafter devised, regardless of the
27 protocol used for such transmission or conveyance. The term
28 includes such transmission, conveyance, or routing in which
29 computer processing applications are used to act on the form,
30 code, or protocol of the content for purposes of transmission,
31 conveyance, or routing without regard to whether such service is
32 referred to as voice-over-Internet-protocol services or is
33 classified by the Federal Communications Commission as enhanced
34 or value-added. The term does not include:

35 (i) Internet video services.

36 (7) "Internet video service" means a subscription-based
37 wired or wireless Internet video programming service.

38 (25)-(24) "Video service" means the transmission of video,
39 audio, or other programming service to a purchaser, and the
40 purchaser interaction, if any, required for the selection or use
41 of a programming service, regardless of whether the programming
42 is transmitted over facilities owned or operated by the video
43 service provider or over facilities owned or operated by another
44 dealer of communications services. The term includes point-to-
45 point and point-to-multipoint distribution services through
46 which programming is transmitted or broadcast by microwave or
47 other equipment directly to the purchaser's premises, but does
48 not include direct-to-home satellite ~~service~~ or Internet video
49 services. The term includes basic, extended, premium, pay-per-
50 view, digital video, two-way cable, and music services.

51 Section 2. Paragraph (a) of subsection (2) of section
 52 202.24, Florida Statutes, is amended to read:

53 202.24 Limitations on local taxes and fees imposed on
 54 dealers of communications services.—

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

57 1. Levying on or collecting from dealers or purchasers of
 58 communications services any tax, charge, fee, or other
 59 imposition on or with respect to the provision or purchase of
 60 communications services.

61 2. Requiring any dealer of communications services to
 62 enter into or extend the term of a franchise or other agreement
 63 that requires the payment of a tax, charge, fee, or other
 64 imposition.

65 3. Adopting or enforcing any provision of any ordinance or
 66 agreement to the extent that such provision obligates a dealer
 67 of communications services to charge, collect, or pay to the
 68 public body a tax, charge, fee, or other imposition.

69 4. Levying on or collecting from dealers or purchasers of
 70 Internet video services any tax, charge, fee, or other
 71 imposition on or with respect to the provision or purchase of
 72 Internet video services.

73
 74 Municipalities and counties may not negotiate those terms and
 75 conditions related to franchise fees or the definition of gross

76 | revenues or other definitions or methodologies related to the
 77 | payment or assessment of franchise fees on providers of video
 78 | services.

79 | Section 3. Paragraph (j) of subsection (3) of section
 80 | 202.26, Florida Statutes, is amended to read:

81 | 202.26 Department powers.—

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

84 | (j) The types of books and records kept in the regular
 85 | course of business which must be available during an audit of a
 86 | dealer's books and records when the dealer has made an
 87 | allocation or attribution pursuant to the definition of sales
 88 | prices in s. 202.11(14)(b)8. ~~s. 202.11(13)(b)8.~~ and examples of
 89 | methods for determining the reasonableness thereof. Books and
 90 | records kept in the regular course of business include, but are
 91 | not limited to, general ledgers, price lists, cost records,
 92 | customer billings, billing system reports, tariffs, and other
 93 | regulatory filings and rules of regulatory authorities. Such
 94 | records may be required to be made available to the department
 95 | in an electronic format when so kept by the dealer. The dealer
 96 | may support the allocation of charges with books and records
 97 | kept in the regular course of business covering the dealer's
 98 | entire service area, including territories outside this state.
 99 | During an audit, the department may reasonably require
 100 | production of any additional books and records found necessary

101 to assist in its determination.

102 Section 4. Paragraph (e) of subsection (1) of section
103 212.05, Florida Statutes, is amended to read:

104 212.05 Sales, storage, use tax.—It is hereby declared to
105 be the legislative intent that every person is exercising a
106 taxable privilege who engages in the business of selling
107 tangible personal property at retail in this state, including
108 the business of making mail order sales, or who rents or
109 furnishes any of the things or services taxable under this
110 chapter, or who stores for use or consumption in this state any
111 item or article of tangible personal property as defined herein
112 and who leases or rents such property within the state.

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

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

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

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

122 (II) If the sale or recharge of the prepaid calling
123 arrangement does not take place at the dealer's place of
124 business, it shall be deemed to have taken place at the
125 customer's shipping address or, if no item is shipped, at the

126 customer's address or the location associated with the
 127 customer's mobile telephone number.

128 (III) The sale or recharge of a prepaid calling
 129 arrangement shall be treated as a sale of tangible personal
 130 property for purposes of this chapter, regardless of whether a
 131 tangible item evidencing such arrangement is furnished to the
 132 purchaser, and such sale within this state subjects the selling
 133 dealer to the jurisdiction of this state for purposes of this
 134 subsection.

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

142 b. The installation of telecommunication and telegraphic
 143 equipment.

144 c. Electrical power or energy, except that the tax rate
 145 for charges for electrical power or energy is 4.35 percent.
 146 Charges for electrical power and energy do not include taxes
 147 imposed under ss. 166.231 and 203.01(1)(a)3.

148 2. Section 212.17(3), regarding credit for tax paid on
 149 charges subsequently found to be worthless, is equally
 150 applicable to any tax paid under this section on charges for

151 prepaid calling arrangements, telecommunication or telegraph
152 services, or electric power subsequently found to be
153 uncollectible. As used in this paragraph, the term "charges"
154 does not include any excise or similar tax levied by the Federal
155 Government, a political subdivision of this state, or a
156 municipality upon the purchase, sale, or recharge of prepaid
157 calling arrangements or upon the purchase or sale of
158 telecommunication, television system program, or telegraph
159 service or electric power, which tax is collected by the seller
160 from the purchaser.

161 Section 5. Paragraph (a) of subsection (1) of section
162 610.118, Florida Statutes, is amended to read:

163 610.118 Impairment; court-ordered operations.—

164 (1) If an incumbent cable or video service provider is
165 required to operate under its existing franchise and is legally
166 prevented by a lawfully issued order of a court of competent
167 jurisdiction from exercising its right to terminate its existing
168 franchise pursuant to the terms of s. 610.105, any
169 certificateholder providing cable service or video service in
170 whole or in part within the service area that is the subject of
171 the incumbent cable or video service provider's franchise shall,
172 for as long as the court order remains in effect, comply with
173 the following franchise terms and conditions as applicable to
174 the incumbent cable or video service provider in the service
175 area:

176 (a) The certificateholder shall pay to the municipality or
177 county:

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

192 2. If the incumbent cable or video service provider is
193 required to make payments for the funding of an institutional
194 network, the certificateholder shall pay an amount equal to the
195 incumbent's funding obligations but not to exceed 1 percent of
196 the sales price, as defined in s. 202.11(14) ~~s. 202.11(13)~~, for
197 the taxable monthly retail sales of cable or video programming
198 services the certificateholder received from subscribers in the
199 affected municipality or county. All definitions and exemptions
200 under chapter 202 apply in the determination of taxable monthly

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201 | retail sales of cable or video programming services.

202 | Section 6. This act shall take effect July 1, 2018.