

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," "Internet access
8 service," and "video service"; revising the definition
9 of the term "sales price"; amending ss. 202.125,
10 202.16, 202.20, and 202.24, F.S.; conforming
11 provisions to changes in terminology; amending s.
12 202.18, F.S.; removing a cross-reference to conform;
13 amending s. 202.195, F.S.; clarifying provisions
14 exempting from the public records law certain
15 proprietary confidential business information held by
16 a local governmental entity for the purpose of
17 assessing the local communications services tax;
18 amending s. 202.22, F.S.; revising provisions relating
19 to a communications services dealer's liability for
20 tax underpayments that result from the incorrect
21 assignment of service addresses to local taxing
22 jurisdictions and providing requirements and
23 conditions with respect thereto; prohibiting the
24 department from denying a dealer of communications
25 services a deduction of a specified amount as a
26 collection allowance under certain circumstances;
27 amending s. 202.231, F.S.; requiring the Department of
28 Revenue to aggregate monthly and make available to the

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

35
 36 Be It Enacted by the Legislature of the State of Florida:

37
 38 Section 1. Subsection (1) of section 202.105, Florida
 39 Statutes, is amended to read:

40 202.105 Legislative findings and intent.—

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

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

71 Section 2. Section 202.11, Florida Statutes, is amended to
 72 read:

73 202.11 Definitions.—As used in this chapter:

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

85 ~~satellite service. The term includes basic, extended, premium,~~
 86 ~~pay per view, digital, and music services.~~

87 (1)~~(2)~~ "Communications services" means the transmission,
 88 conveyance, or routing of voice, data, audio, video, or any
 89 other information or signals, including video ~~cable~~ services, to
 90 a point, or between or among points, by or through any
 91 electronic, radio, satellite, cable, optical, microwave, or
 92 other medium or method now in existence or hereafter devised,
 93 regardless of the protocol used for such transmission or
 94 conveyance. The term includes such transmission, conveyance, or
 95 routing in which computer processing applications are used to
 96 act on the form, code, or protocol of the content for purposes
 97 of transmission, conveyance, or routing without regard to
 98 whether such service is referred to as voice-over-Internet-
 99 protocol services or is classified by the Federal Communications
 100 Commission as enhanced or value-added. The term does not
 101 include:

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

113 services.

114 (i) Digital goods.

115 (j) Digital services.

116 (2)~~(3)~~ "Dealer" means a person registered with the
 117 department as a provider of communications services in this
 118 state.

119 (3)~~(4)~~ "Department" means the Department of Revenue.

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

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

136 (6)~~(5)~~ "Direct-to-home satellite service" has the meaning
 137 ascribed in the Communications Act of 1934, 47 U.S.C. s. 303(v).

138 (7)~~(6)~~ "Information service" means the offering of a
 139 capability for generating, acquiring, storing, transforming,
 140 processing, retrieving, using, or making available information

141 via communications services, including, but not limited to,
 142 electronic publishing, web-hosting service, and end-user 900
 143 number service. The term does not include ~~any video, audio, or~~
 144 ~~other programming service that uses point-to-multipoint~~
 145 ~~distribution by which programming is delivered, transmitted, or~~
 146 ~~broadcast by any means, including any interaction that may be~~
 147 ~~necessary for selecting and using the service, regardless of~~
 148 ~~whether the programming is delivered, transmitted, or broadcast~~
 149 ~~over facilities owned or operated by the seller or another, or~~
 150 ~~whether denominated as cable service or as basic, extended,~~
 151 ~~premium, pay-per-view, digital, music, or two-way cable service.~~

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

156 (9)~~(7)~~ "Mobile communications service" means ~~commercial~~
 157 mobile ~~radio~~ service, as defined in 47 C.F.R. s. 20.3 as in
 158 effect on June 1, 1999. The term does not include air-ground
 159 radiotelephone service as defined in 47 C.F.R. s. 22.99 as in
 160 effect on June 1, 1999.

161 (10)~~(8)~~ "Person" has the meaning ascribed in s. 212.02.

162 (11)~~(9)~~ "Prepaid calling arrangement" means the separately
 163 stated retail sale by advance payment of communications services
 164 that consist exclusively of telephone calls originated by using
 165 an access number, authorization code, or other means that may be
 166 manually, electronically, or otherwise entered;~~;~~ and that are
 167 sold in predetermined units or dollars of which the number
 168 declines with use in a known amount.

169 ~~(12)-(10)~~ "Purchaser" means the person paying for or
 170 obligated to pay for communications services.

171 ~~(13)-(11)~~ "Retail sale" means the sale of communications
 172 services for any purpose other than for resale or for use as a
 173 component part of or for integration into communications
 174 services to be resold in the ordinary course of business.
 175 However, any sale for resale must comply with s. 202.16(2) and
 176 the rules adopted thereunder.

177 ~~(14)-(12)~~ "Sale" means the provision of communications
 178 services for a consideration.

179 ~~(15)-(13)~~ "Sales price" means the total amount charged in
 180 money or other consideration by a dealer for the sale of the
 181 right or privilege of using communications services in this
 182 state, including any property or other service, not described in
 183 paragraph (a), which is services that are part of the sale and
 184 for which the charge is not separately itemized on a customer's
 185 bill or separately allocated under subparagraph (b)8. The sales
 186 price of communications services may ~~shall~~ not be reduced by any
 187 separately identified components of the charge which ~~that~~
 188 constitute expenses of the dealer, including, but not limited
 189 to, sales taxes on goods or services purchased by the dealer,
 190 property taxes, taxes measured by net income, and universal-
 191 service fund fees.

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

195 1. The connection, movement, change, or termination of
 196 communications services.

- 197 2. The detailed billing of communications services.
- 198 3. The sale of directory listings in connection with a
199 communications service.
- 200 4. Central office and custom calling features.
- 201 5. Voice mail and other messaging service.
- 202 6. Directory assistance.
- 203 7. The service of sending or receiving a document commonly
204 referred to as a facsimile or "fax," except when performed
205 during the course of providing professional or advertising
206 services.
- 207 (b) The sales price of communications services does not
208 include charges for any of the following:
- 209 1. An ~~Any~~ excise tax, sales tax, or similar tax levied by
210 the United States or any state or local government on the
211 purchase, sale, use, or consumption of any communications
212 service, including, but not limited to, a ~~any~~ tax imposed under
213 this chapter or chapter 203 which is permitted or required to be
214 added to the sales price of such service, if the tax is stated
215 separately.
- 216 2. A ~~Any~~ fee or assessment levied by the United States or
217 any state or local government, including, but not limited to,
218 regulatory fees and emergency telephone surcharges, which must
219 ~~is required to~~ be added to the price of the ~~such~~ service if the
220 fee or assessment is separately stated.
- 221 3. Communications services paid for by inserting coins
222 into coin-operated communications devices available to the
223 public.
- 224 4. The sale or recharge of a prepaid calling arrangement.

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

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

231 7. Charges for property or other services that are not
 232 part of the sale of communications services, if such charges are
 233 stated separately from the charges for communications services.

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

244 ~~(16)-(14)~~ "Service address" means:

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

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

249 2. In the case of a communications service paid through a
 250 credit or payment mechanism that does not relate to a service
 251 address, such as a bank, travel, debit, or credit card, and in
 252 the case of third-number and calling-card calls, the term

253 "service address" means the address of the central office, as
 254 determined by the area code and the first three digits of the
 255 seven-digit originating telephone number; or

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

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

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

268 (17) ~~(15)~~ "Unbundled network element" means a network
 269 element, as defined in 47 U.S.C. s. 153(29), to which access is
 270 provided on an unbundled basis pursuant to 47 U.S.C. s.
 271 251(c) (3).

272 (18) ~~(16)~~ "Private communications service" means a
 273 communications service that entitles the subscriber or user to
 274 exclusive or priority use of a communications channel or group
 275 of channels between or among channel termination points,
 276 regardless of the manner in which such channel or channels are
 277 connected, and includes switching capacity, extension lines,
 278 stations, and any other associated services that ~~which~~ are
 279 provided in connection with the use of such channel or channels.

280 (19) ~~(17)~~ (a) "Customer" means:

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

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

287 (b) "Customer" does not include:

288 1. A reseller of mobile communications services; or

289 2. A serving carrier under an agreement to serve the
 290 customer outside the home service provider's licensed service
 291 area.

292 (20)~~(18)~~ "Enhanced zip code" means a United States postal
 293 zip code of 9 or more digits.

294 (21)~~(19)~~ "Home service provider" means the facilities-
 295 based carrier or reseller with which the customer contracts for
 296 the provision of mobile communications services.

297 (22)~~(20)~~ "Licensed service area" means the geographic area
 298 in which the home service provider is authorized by law or
 299 contract to provide mobile communications service to the
 300 customer.

301 (23)~~(21)~~ "Place of primary use" means the street address
 302 representative of where the customer's use of the mobile
 303 communications service primarily occurs, which must be:

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

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

308 (24)~~(22)~~ (a) "Reseller" means a provider who purchases

309 | communications services from another communications service
 310 | provider and then resells, uses as a component part of, or
 311 | integrates the purchased services into a mobile communications
 312 | service.

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

317 | ~~(25)-(23)~~ "Serving carrier" means a facilities-based
 318 | carrier providing mobile communications service to a customer
 319 | outside a home service provider's or reseller's licensed service
 320 | 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 ~~cable~~ 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
 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
 357 a component part of or integrated into a communications service
 358 or 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)

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.

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

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
 463 rates.—

464 (2)

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

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

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

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

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

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

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

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

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

501 202.22 Determination of local tax situs.—

502 (5) If a dealer of communications services does not use
 503 one or more of the methods specified in subsection (1) for
 504 determining the local taxing jurisdiction in which one or more

505 service addresses are ~~a service address is~~ located and:
 506 (a) The dealer's failure to use one or more of such
 507 methods results in a net aggregate underpayment of all taxes
 508 levied pursuant to s. 202.19 with respect to one or more tax
 509 periods that are being examined by the department; and
 510 (b) The department has determined the misallocations
 511 between jurisdictions for all taxes levied pursuant to s. 202.19
 512 and collected by the dealer with respect to any tax period being
 513 examined by the department; then,
 514
 515 the dealer of communications services may be held liable to the
 516 department for the net aggregate underpayment of any tax, and
 517 for including interest and penalties attributable to the net
 518 aggregate underpayment of tax, which is due as a result of
 519 assigning one or more the service addresses address to an
 520 incorrect local taxing jurisdiction. However, the dealer of
 521 communications services is not liable for any tax, interest, or
 522 penalty under this subsection unless the department has
 523 determined the net aggregate underpayment of tax for any tax
 524 period that is being examined, taking into account all
 525 underpayments and overpayments for such period or periods to the
 526 extent that such amount was collected and remitted by the dealer
 527 of communications services with respect to a tax imposed by
 528 another local taxing jurisdiction. Upon determining that an
 529 amount was collected and remitted by a dealer of communications
 530 services with respect to a tax imposed by another local taxing
 531 jurisdiction, the department shall adjust the respective amounts
 532 of the proceeds paid to each such taxing jurisdiction under s.

533 ~~202.18 in the month immediately following such determination.~~

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

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

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

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

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

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

558 (3) The gross taxable sales and net tax information
 559 contained in the monthly reports required by this section shall
 560 be aggregated on a jurisdiction-by-jurisdiction basis, and the

561 aggregate jurisdiction-by-jurisdiction information shall be made
 562 available by the department to the public through the
 563 department's website for each fiscal year this chapter has been
 564 in effect.

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

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

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

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

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

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

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

589 (c) This subsection does not apply to:

590 1. Local communications services taxes levied under this

591 chapter.

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

593 3. Business taxes levied under chapter 205.

594 4. "911" service charges levied under chapter 365.

595 5. Amounts charged for the rental or other use of property

596 owned by a public body which is not in the public rights-of-way

597 to a dealer of communications services for any purpose,

598 including, but not limited to, the placement or attachment of

599 equipment used in the provision of communications services.

600 6. Permit fees of general applicability which are not

601 related to placing or maintaining facilities in or on public

602 roads or rights-of-way.

603 7. Permit fees related to placing or maintaining

604 facilities in or on public roads or rights-of-way pursuant to s.

605 337.401.

606 8. Any in-kind requirements, institutional networks, or

607 contributions for, or in support of, the use or construction of

608 public, educational, or governmental access facilities allowed

609 under federal law and imposed on providers of ~~cable or~~ video

610 service pursuant to any existing ordinance or an existing

611 franchise agreement granted by each municipality or county,

612 under which ordinance or franchise agreement service is provided

613 before ~~prior to~~ July 1, 2007, or as permitted under chapter 610.

614 ~~Nothing in~~ This subparagraph does not shall prohibit ~~the ability~~

615 ~~of~~ providers of ~~cable or~~ video service from recovering the ~~to~~

616 ~~recover such~~ expenses as allowed under federal law.

617 9. Special assessments and impact fees.

618 10. Pole attachment fees that are charged by a local
619 government for attachments to utility poles owned by the local
620 government.

621 11. Utility service fees or other similar user fees for
622 utility services.

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

627 Section 11. Paragraph (j) of subsection (3) of section
628 202.26, Florida Statutes, is amended to read:

629 202.26 Department powers.—

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

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

645 kept in the regular course of business covering the dealer's
 646 entire service area, including territories outside this state.
 647 During an audit, the department may reasonably require
 648 production of any additional books and records found necessary
 649 to assist in its determination.

650 Section 12. Paragraph (a) of subsection (1) of section
 651 203.01, Florida Statutes, is amended to read:

652 203.01 Tax on gross receipts for utility and
 653 communications services.—

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

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

667 Section 13. Paragraph (a) of subsection (1) of section
 668 610.118, Florida Statutes, is amended to read:

669 610.118 Impairment; court-ordered operations.—

670 (1) If an incumbent cable or video service provider is
 671 required to operate under its existing franchise and is legally
 672 prevented by a lawfully issued order of a court of competent

673 jurisdiction from exercising its right to terminate its existing
 674 franchise pursuant to the terms of s. 610.105, any
 675 certificateholder providing cable service or video service in
 676 whole or in part within the service area that is the subject of
 677 the incumbent cable or video service provider's franchise shall,
 678 for as long as the court order remains in effect, comply with
 679 the following franchise terms and conditions as applicable to
 680 the incumbent cable or video service provider in the service
 681 area:

682 (a) The certificateholder shall pay to the municipality or
 683 county:

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

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

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

708 Section 14. Section 624.105, Florida Statutes, is amended
 709 to read:

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

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

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

731 (1) The changes made in section 2 of this act to
 732 subsections renumbered as subsections (9) and (15) of s. 202.11,
 733 Florida Statutes;

734 (2) The changes made in section 8 of this act to s.
 735 202.22, Florida Statutes; and

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