

By the Committee on Commerce and Economic Opportunities; and
Senators Peadar and Brown-Waite

310-2332-02

1 A bill to be entitled
2 An act relating to taxation of communications
3 services; amending s. 202.12, F.S.; providing
4 for a schedule of taxation of the sales of
5 certain satellite services and cable services;
6 amending s. 202.125, F.S.; including cable
7 service within an exemption from the
8 communications services tax imposed by s.
9 202.12, F.S.; amending s. 202.18, F.S.;
10 revising the distribution of the tax on the
11 sale of cable services, to conform; revising
12 the distribution of the tax on the sale of
13 direct-to-home satellite services, to conform;
14 conforming references; amending s. 202.19,
15 F.S.; conforming references; amending s.
16 212.20, F.S.; conforming references; providing
17 effective dates.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Paragraph (c) of subsection (1) of section
22 202.12, Florida Statutes, is amended to read:

23 202.12 Sales of communications services.--The
24 Legislature finds that every person who engages in the
25 business of selling communications services at retail in this
26 state is exercising a taxable privilege. It is the intent of
27 the Legislature that the tax imposed by chapter 203 be
28 administered as provided in this chapter.

29 (1) For the exercise of such privilege, a tax is
30 levied on each taxable transaction, and the tax is due and
31 payable as follows:

1 (c)1. At the rate of 10.8 percent on the retail sales
2 price of any nonresidential direct-to-home satellite service
3 received in this state. The proceeds of the tax imposed under
4 this paragraph shall be accounted for and distributed in
5 accordance with s. 202.18(2). The gross receipts tax imposed
6 by chapter 203 shall be collected on the same taxable
7 transactions and remitted with the tax imposed by this
8 paragraph.

9 2. At the following rates on the retail sales price of
10 any direct-to-home satellite service sold to a residential
11 household and received in this state:

12 a. For fiscal year 2002-2003, 10.03 percent.

13 b. For fiscal year 2003-2004, 9.26 percent.

14 c. For fiscal year 2004-2005, 8.48 percent.

15 d. For fiscal year 2005-2006, 7.70 percent.

16 e. For fiscal year 2006-2007, 6.93 percent.

17 f. For fiscal year 2007-2008, 6.16 percent.

18 g. For fiscal year 2008-2009, 5.38 percent.

19 h. For fiscal year 2009-2010, 4.60 percent.

20 i. For fiscal year 2010-2011 and thereafter, 4
21 percent.

22 3. At the following rates on the retail sales price of
23 any cable service sold to a residential household and received
24 in this state:

25 a. For fiscal year 2002-2003, 6.03 percent.

26 b. For fiscal year 2003-2004, 5.26 percent.

27 c. For fiscal year 2004-2005, 4.48 percent.

28 d. For fiscal year 2005-2006, 3.70 percent.

29 e. For fiscal year 2006-2007, 2.93 percent.

30 f. For fiscal year 2007-2008, 2.16 percent.

31 g. For fiscal year 2008-2009, 1.38 percent.

1 h. For fiscal year 2009-2010, 0.60 percent.

2 i. For fiscal year 2010-2011 and thereafter, the
3 retail sales price of any cable service sold to a residential
4 household and received in this state shall be exempt from the
5 tax imposed by this section, but shall remain subject to the
6 gross receipts tax imposed by chapter 203.

7 Section 2. Effective July 1, 2010, subsection (1) of
8 section 202.125, Florida Statutes, is amended to read:

9 202.125 Sales of communications services; specified
10 exemptions.--

11 (1) The separately stated sales price of
12 communications services sold to residential households is
13 exempt from the tax imposed by s. 202.12. This exemption shall
14 not apply to any residence that constitutes all or part of a
15 public lodging establishment as defined in chapter 509, any
16 mobile communications service, ~~any cable service~~, or any
17 direct-to-home satellite service.

18 Section 3. Subsections (1) and (2) of section 202.18,
19 Florida Statutes, are amended to read:

20 202.18 Allocation and disposition of tax
21 proceeds.--The proceeds of the communications services taxes
22 remitted under this chapter shall be treated as follows:

23 (1) The proceeds of the taxes remitted under s.
24 202.12(1)(a), (b), and (c)3.~~s. 202.12(1)(a) and (b)~~ shall be
25 divided as follows:

26 (a) The portion of such proceeds which constitutes
27 gross receipts taxes, imposed at the rate prescribed in
28 chapter 203, shall be deposited as provided by law and in
29 accordance with s. 9, Art. XII of the State Constitution.

30 (b) The remaining portion shall be distributed
31 according to s. 212.20(6).

1 (2) The proceeds of the taxes remitted under s.
2 202.12(1)(c)1. and 2.s. 202.12(1)(c) shall be divided as
3 follows:

4 (a) The portion of such proceeds which constitutes
5 gross receipts taxes, imposed at the rate prescribed in
6 chapter 203, shall be deposited as provided by law and in
7 accordance with s. 9, Art. XII of the State Constitution.

8 (b) With respect to tax levied at the rate of 10.8
9 percent:

10 1. Sixty-three percent of the proceeds ~~remainder~~ shall
11 be allocated to the state and distributed pursuant to s.
12 212.20(6), except that the proceeds allocated pursuant to s.
13 212.20(6)(d)3. shall be prorated to the participating counties
14 in the same proportion as that month's collection of the taxes
15 and fees imposed pursuant to chapter 212 and paragraph (1)(b).

16 2.a.(c)1. During each calendar year, the remaining
17 portion of such proceeds shall be transferred to the Local
18 Government Half-cent Sales Tax Clearing Trust Fund and shall
19 be allocated in the same proportion as the allocation of total
20 receipts of the half-cent sales tax under s. 218.61 and the
21 emergency distribution under s. 218.65 in the prior state
22 fiscal year. ~~However, during calendar year 2001, state fiscal~~
23 ~~year 2000-2001 proportions shall be used.~~

24 b.2. The proportion of the proceeds allocated based on
25 the emergency distribution under s. 218.65 shall be
26 distributed pursuant to s. 218.65.

27 c.3. In each calendar year, the proportion of the
28 proceeds allocated based on the half-cent sales tax under s.
29 218.61 shall be allocated to each county in the same
30 proportion as the county's percentage of total sales tax
31 allocation for the prior state fiscal year and distributed

1 pursuant to s. 218.62, except that for calendar year 2001,
2 state fiscal year 2000-2001 proportions shall be used.

3 ~~d.4.~~ The department shall distribute the appropriate
4 amount to each municipality and county each month at the same
5 time that local communications services taxes are distributed
6 pursuant to subsection (3).

7 (c)1. With respect to tax levied pursuant to s.
8 202.12(1)(c)2., the following proportion of the proceeds shall
9 be allocated to the state and distributed pursuant to s.
10 212.20(6), except that the proceeds allocated pursuant to s.
11 212.20(6)(d)3. shall be prorated to the participating counties
12 in the same proportion as that month's collection of the taxes
13 and fees imposed pursuant to chapter 212 and paragraph (1)(b):

14 a. For fiscal year 2002-2003, 60.12 percent.

15 b. For fiscal year 2003-2004, 56.80 percent.

16 c. For fiscal year 2004-2005, 52.83 percent.

17 d. For fiscal year 2005-2006, 48.05 percent.

18 e. For fiscal year 2006-2007, 42.28 percent.

19 f. For fiscal year 2007-2008, 35.06 percent.

20 g. For fiscal year 2008-2009, 25.65 percent.

21 h. For fiscal year 2009-2010, 13.04 percent.

22 i. For fiscal year 2010-2011 and thereafter, no
23 proportion of the proceeds shall be allocated to the state.

24 2. During each calendar year, the remaining proceeds
25 shall be transferred to the Local Government Half-cent Sales
26 Tax Clearing Trust Fund and shall be allocated in the same
27 proportion as the allocation of total receipts of the
28 half-cent sales tax under s. 218.61 and the emergency
29 distribution under s. 218.65 in the prior state fiscal year.

1 3. The proportion of the proceeds allocated based on
2 the emergency distribution under s. 218.65 shall be
3 distributed pursuant to s. 218.65.

4 4. In each calendar year, the proportion of the
5 proceeds allocated based on the half-cent sales tax under s.
6 218.61 shall be allocated to each county in the same
7 proportion as the county's percentage of total sales tax
8 allocation for the prior state fiscal year and distributed
9 pursuant to s. 218.62.

10 5. The department shall distribute the appropriate
11 amount to each municipality and county each month at the same
12 time that local communications services taxes are distributed
13 pursuant to subsection (3).

14 Section 4. Subsections (4) and (5) of section 202.19,
15 Florida Statutes, are amended to read:

16 202.19 Authorization to impose local communications
17 services tax.--

18 (4)(a)1. Except as otherwise provided in this section,
19 the tax imposed by any municipality shall be on all
20 communications services subject to tax under s. 202.12 or to
21 the gross receipts tax under chapter 203 which:

- 22 a. Originate or terminate in this state; and
23 b. Are charged to a service address in the
24 municipality.

25 2. With respect to private communications services,
26 the tax shall be on the sales price of such services provided
27 within the municipality. In determining the sales price of
28 private communications services subject to tax, the
29 communications service provider shall be entitled to use any
30 method that reasonably allocates the total charges among the
31 state and local taxing jurisdictions in which channel

1 termination points are located. An allocation method is deemed
2 to be reasonable for purposes of this subparagraph if the
3 communications service provider regularly used such method for
4 Florida tax purposes prior to December 31, 2000. If a
5 communications service provider uses a reasonable allocation
6 method, such provider shall be held harmless from any
7 liability for additional tax, interest, or penalty based on a
8 different allocation method.

9 (b)1. Except as otherwise provided in this section,
10 the tax imposed by any county under subsection (1) shall be on
11 all communications services subject to tax under s. 202.12 or
12 to the gross receipts tax under chapter 203 which:

- 13 a. Originate or terminate in this state; and
- 14 b. Are charged to a service address in the
15 unincorporated area of the county.

16 2. With respect to private communications services,
17 the tax shall be on the sales price of such services provided
18 within the unincorporated area of the county. In determining
19 the amount of charges for private communications services
20 subject to tax, the communications service provider shall be
21 entitled to use any method that reasonably allocates the total
22 charges among the state and local taxing jurisdictions in
23 which channel termination points are located. An allocation
24 method is deemed to be reasonable for purposes of this
25 subparagraph if the communications service provider regularly
26 used such method for Florida tax purposes prior to December
27 31, 2000. If a communications service provider uses a
28 reasonable allocation method, such provider shall be held
29 harmless from any liability for additional tax, interest, or
30 penalty based on a different allocation method.

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1 (5) In addition to the communications services taxes
2 authorized by subsection (1), a discretionary sales surtax
3 that a county or school board has levied under s. 212.055 is
4 imposed as a local communications services tax under this
5 section, and the rate shall be determined in accordance with
6 s. 202.20(3).

7 (a) Except as otherwise provided in this subsection,
8 each such tax rate shall be applied, in addition to the other
9 tax rates applied under this chapter, to communications
10 services subject to tax under s. 202.12 or to the gross
11 receipts tax under chapter 203 which:

- 12 1. Originate or terminate in this state; and
- 13 2. Are charged to a service address in the county.

14 (b) With respect to private communications services,
15 the tax shall be on the sales price of such services provided
16 within the county. In determining the sales price of private
17 communications services subject to tax, the communications
18 service provider shall be entitled to use any method that
19 reasonably allocates the total charges among the state and
20 local taxing jurisdictions in which channel termination points
21 are located. An allocation method is deemed to be reasonable
22 for purposes of this paragraph if the communications service
23 provider regularly used such method for Florida tax purposes
24 prior to December 31, 2000. If a communications service
25 provider uses a reasonable allocation method, such provider
26 shall be held harmless from any liability for additional tax,
27 interest, or penalty based on a different allocation method.

28 Section 5. Effective January 1, 2004, subsections (4)
29 and (5) of section 202.19, Florida Statutes, as amended by
30 section 10 of chapter 2001-140, Laws of Florida, are amended
31 to read:

1 202.19 Authorization to impose local communications
2 services tax.--

3 (4)(a)1. Except as otherwise provided in this section,
4 the tax imposed by any municipality shall be on all
5 communications services subject to tax under s. 202.12 or to
6 the gross receipts tax under chapter 203 which:

7 a. Originate or terminate in this state; and
8 b. Are charged to a service address in the
9 municipality.

10 2. With respect to private communications services,
11 the tax shall be on the sales price of such services provided
12 within the municipality, which shall be determined in
13 accordance with the following provisions:

14 a. Any charge with respect to a channel termination
15 point located within such municipality;

16 b. Any charge for the use of a channel between two
17 channel termination points located in such municipality; and

18 c. Where channel termination points are located both
19 within and outside of the municipality:

20 (I) If any segment between two such channel
21 termination points is separately billed, 50 percent of such
22 charge; and

23 (II) If any segment of the circuit is not separately
24 billed, an amount equal to the total charge for such circuit
25 multiplied by a fraction, the numerator of which is the number
26 of channel termination points within such municipality and the
27 denominator of which is the total number of channel
28 termination points of the circuit.

29 (b)1. Except as otherwise provided in this section,
30 the tax imposed by any county under subsection (1) shall be on
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1 all communications services subject to tax under s. 202.12 or
2 to the gross receipts tax under chapter 203 which:
3 a. Originate or terminate in this state; and
4 b. Are charged to a service address in the
5 unincorporated area of the county.
6 2. With respect to private communications services,
7 the tax shall be on the sales price of such services provided
8 within the unincorporated area of the county, which shall be
9 determined in accordance with the following provisions:
10 a. Any charge with respect to a channel termination
11 point located within the unincorporated area of such county;
12 b. Any charge for the use of a channel between two
13 channel termination points located in the unincorporated area
14 of such county; and
15 c. Where channel termination points are located both
16 within and outside of the unincorporated area of such county:
17 (I) If any segment between two such channel
18 termination points is separately billed, 50 percent of such
19 charge; and
20 (II) If any segment of the circuit is not separately
21 billed, an amount equal to the total charge for such circuit
22 multiplied by a fraction, the numerator of which is the number
23 of channel termination points within the unincorporated area
24 of such county and the denominator of which is the total
25 number of channel termination points of the circuit.
26 (5) In addition to the communications services taxes
27 authorized by subsection (1), a discretionary sales surtax
28 that a county or school board has levied under s. 212.055 is
29 imposed as a local communications services tax under this
30 section, and the rate shall be determined in accordance with
31 s. 202.20(3).

1 (a) Except as otherwise provided in this subsection,
2 each such tax rate shall be applied, in addition to the other
3 tax rates applied under this chapter, to communications
4 services subject to tax under s. 202.12 or to the gross
5 receipts tax under chapter 203 which:

- 6 1. Originate or terminate in this state; and
- 7 2. Are charged to a service address in the county.

8 (b) With respect to private communications services,
9 the tax shall be on the sales price of such services provided
10 within the county, which shall be determined in accordance
11 with the following provisions:

12 1. Any charge with respect to a channel termination
13 point located within such county;

14 2. Any charge for the use of a channel between two
15 channel termination points located in such county; and

16 3. Where channel termination points are located both
17 within and outside of such county:

18 a. If any segment between two such channel termination
19 points is separately billed, 50 percent of such charge; and

20 b. If any segment of the circuit is not separately
21 billed, an amount equal to the total charge for such circuit
22 multiplied by a fraction, the numerator of which is the number
23 of channel termination points within such county and the
24 denominator of which is the total number of channel
25 termination points of the circuit.

26 Section 6. Subsection (6) of section 212.20, Florida
27 Statutes, is amended to read:

28 212.20 Funds collected, disposition; additional powers
29 of department; operational expense; refund of taxes
30 adjudicated unconstitutionally collected.--

31

1 (6) Distribution of all proceeds under this chapter
2 and s. 202.18(1)(b), (2)(b)1., and (2)(c)1.~~s. 202.18(1)(b)~~
3 ~~and (2)(b)~~ shall be as follows:

4 (a) Proceeds from the convention development taxes
5 authorized under s. 212.0305 shall be reallocated to the
6 Convention Development Tax Clearing Trust Fund.

7 (b) Proceeds from discretionary sales surtaxes imposed
8 pursuant to ss. 212.054 and 212.055 shall be reallocated to
9 the Discretionary Sales Surtax Clearing Trust Fund.

10 (c) Proceeds from the fees imposed under ss.
11 212.05(1)(i)3. and 212.18(3) shall remain with the General
12 Revenue Fund.

13 (d) The proceeds of all other taxes and fees imposed
14 pursuant to this chapter or remitted pursuant to s.
15 202.18(1)(b), (2)(b)1., and (2)(c)1.~~s. 202.18(1)(b) and~~
16 ~~(2)(b)~~ shall be distributed as follows:

17 1. In any fiscal year, the greater of \$500 million,
18 minus an amount equal to 4.6 percent of the proceeds of the
19 taxes collected pursuant to chapter 201, or 5 percent of all
20 other taxes and fees imposed pursuant to this chapter or
21 remitted pursuant to s. 202.18(1)(b), (2)(b)1., and (2)(c)1.
22 ~~s. 202.18(1)(b) and (2)(b)~~ shall be deposited in monthly
23 installments into the General Revenue Fund.

24 2. Two-tenths of one percent shall be transferred to
25 the Solid Waste Management Trust Fund.

26 3. After the distribution under subparagraphs 1. and
27 2., 9.653 percent of the amount remitted by a sales tax dealer
28 located within a participating county pursuant to s. 218.61
29 shall be transferred into the Local Government Half-cent Sales
30 Tax Clearing Trust Fund.

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1 4. After the distribution under subparagraphs 1., 2.,
2 and 3., 0.065 percent shall be transferred to the Local
3 Government Half-cent Sales Tax Clearing Trust Fund and
4 distributed pursuant to s. 218.65.

5 5. For proceeds received after July 1, 2000, and after
6 the distributions under subparagraphs 1., 2., 3., and 4., 2.25
7 percent of the available proceeds pursuant to this paragraph
8 shall be transferred monthly to the Revenue Sharing Trust Fund
9 for Counties pursuant to s. 218.215.

10 6. For proceeds received after July 1, 2000, and after
11 the distributions under subparagraphs 1., 2., 3., and 4.,
12 1.0715 percent of the available proceeds pursuant to this
13 paragraph shall be transferred monthly to the Revenue Sharing
14 Trust Fund for Municipalities pursuant to s. 218.215. If the
15 total revenue to be distributed pursuant to this subparagraph
16 is at least as great as the amount due from the Revenue
17 Sharing Trust Fund for Municipalities and the Municipal
18 Financial Assistance Trust Fund in state fiscal year
19 1999-2000, no municipality shall receive less than the amount
20 due from the Revenue Sharing Trust Fund for Municipalities and
21 the Municipal Financial Assistance Trust Fund in state fiscal
22 year 1999-2000. If the total proceeds to be distributed are
23 less than the amount received in combination from the Revenue
24 Sharing Trust Fund for Municipalities and the Municipal
25 Financial Assistance Trust Fund in state fiscal year
26 1999-2000, each municipality shall receive an amount
27 proportionate to the amount it was due in state fiscal year
28 1999-2000.

29 7. Of the remaining proceeds:

30 a. Beginning July 1, 2000, and in each fiscal year
31 thereafter, the sum of \$29,915,500 shall be divided into as

1 many equal parts as there are counties in the state, and one
2 part shall be distributed to each county. The distribution
3 among the several counties shall begin each fiscal year on or
4 before January 5th and shall continue monthly for a total of 4
5 months. If a local or special law required that any moneys
6 accruing to a county in fiscal year 1999-2000 under the
7 then-existing provisions of s. 550.135 be paid directly to the
8 district school board, special district, or a municipal
9 government, such payment shall continue until such time that
10 the local or special law is amended or repealed. The state
11 covenants with holders of bonds or other instruments of
12 indebtedness issued by local governments, special districts,
13 or district school boards prior to July 1, 2000, that it is
14 not the intent of this subparagraph to adversely affect the
15 rights of those holders or relieve local governments, special
16 districts, or district school boards of the duty to meet their
17 obligations as a result of previous pledges or assignments or
18 trusts entered into which obligated funds received from the
19 distribution to county governments under then-existing s.
20 550.135. This distribution specifically is in lieu of funds
21 distributed under s. 550.135 prior to July 1, 2000.

22 b. The department shall distribute \$166,667 monthly
23 pursuant to s. 288.1162 to each applicant that has been
24 certified as a "facility for a new professional sports
25 franchise" or a "facility for a retained professional sports
26 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
27 distributed monthly by the department to each applicant that
28 has been certified as a "facility for a retained spring
29 training franchise" pursuant to s. 288.1162; however, not more
30 than \$208,335 may be distributed monthly in the aggregate to
31 all certified facilities for a retained spring training

1 franchise. Distributions shall begin 60 days following such
2 certification and shall continue for not more than 30 years.
3 Nothing contained in this paragraph shall be construed to
4 allow an applicant certified pursuant to s. 288.1162 to
5 receive more in distributions than actually expended by the
6 applicant for the public purposes provided for in s.
7 288.1162(6). However, a certified applicant is entitled to
8 receive distributions up to the maximum amount allowable and
9 undistributed under this section for additional renovations
10 and improvements to the facility for the franchise without
11 additional certification.

12 c. Beginning 30 days after notice by the Office of
13 Tourism, Trade, and Economic Development to the Department of
14 Revenue that an applicant has been certified as the
15 professional golf hall of fame pursuant to s. 288.1168 and is
16 open to the public, \$166,667 shall be distributed monthly, for
17 up to 300 months, to the applicant.

18 d. Beginning 30 days after notice by the Office of
19 Tourism, Trade, and Economic Development to the Department of
20 Revenue that the applicant has been certified as the
21 International Game Fish Association World Center facility
22 pursuant to s. 288.1169, and the facility is open to the
23 public, \$83,333 shall be distributed monthly, for up to 168
24 months, to the applicant. This distribution is subject to
25 reduction pursuant to s. 288.1169. A lump sum payment of
26 \$999,996 shall be made, after certification and before July 1,
27 2000.

28 8. All other proceeds shall remain with the General
29 Revenue Fund.

30 Section 7. Except as otherwise expressly provided in
31 this act, this act shall take effect July 1, 2002.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1258

Instead of creating an exemption to the sales tax portion of the new communications services tax for residential direct-to-home satellite service and residential cable service which would take effect July 1, 2002, (as in SB 1258), this committee substitute phases in that exemption over a nine-year period.