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LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
04/25/2014	.	
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The Committee on Appropriations (Galvano) recommended the following:

1           **Senate Amendment to Amendment (477076) (with title**  
2 **amendment)**

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4           Delete lines 16 - 98  
5 and insert:

6           (a) Except as otherwise provided in this subsection, at a  
7 rate of 6.13 ~~6.65~~ percent applied to the sales price of the  
8 communications service that ~~which~~:

- 9           1. Originates and terminates in this state;; or  
10           2. Originates or terminates in this state and is charged to



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11 a service address in this state,  
12  
13 when sold at retail, computed on each taxable sale for the  
14 purpose of remitting the tax due. The gross receipts tax imposed  
15 by chapter 203 shall be collected on the same taxable  
16 transactions and remitted with the tax imposed by this  
17 paragraph. If no tax is imposed by this paragraph due to the  
18 exemption provided under ~~by reason of~~ s. 202.125(1), the tax  
19 imposed by chapter 203 shall nevertheless be collected and  
20 remitted in the manner and at the time prescribed for tax  
21 collections and remittances under this chapter.

22 (b) At the rate of 10.28 ~~10.8~~ percent on the retail sales  
23 price of any direct-to-home satellite service received in this  
24 state. The proceeds of the tax imposed under this paragraph  
25 shall be accounted for and distributed in accordance with s.  
26 202.18(2). The gross receipts tax imposed by chapter 203 shall  
27 be collected on the same taxable transactions and remitted with  
28 the tax imposed by this paragraph.

29 Section 2. Section 202.12001, Florida Statutes, is amended  
30 to read:

31 202.12001 Combined rate for tax collected pursuant to ss.  
32 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.  
33 2010-149, Laws of Florida, the dealer of communication services  
34 may collect a combined rate of 6.28 ~~6.8~~ percent comprised of  
35 6.13 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a)  
36 and 203.01(1)(b)3., respectively, if ~~as long as~~ the provider  
37 properly reflects the tax collected with respect to the two  
38 provisions as required in the return to the Department of  
39 Revenue.



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40 Section 3. Subsection (2) of section 202.18, Florida  
41 Statutes, is amended to read:

42 202.18 Allocation and disposition of tax proceeds.—The  
43 proceeds of the communications services taxes remitted under  
44 this chapter shall be treated as follows:

45 (2) The proceeds of the taxes remitted under s.  
46 202.12(1)(b) shall be allocated ~~divided~~ as follows:

47 (a) The portion of such proceeds that constitute ~~which~~  
48 ~~constitutes~~ gross receipts taxes, imposed at the rate prescribed  
49 in chapter 203, shall be deposited as provided by law and in  
50 accordance with s. 9, Art. XII of the State Constitution.

51 (b) Sixty and nine-tenths ~~Sixty-three~~ percent of the  
52 remainder shall be allocated to the state and distributed  
53 pursuant to s. 212.20(6), except that the proceeds allocated  
54 pursuant to s. 212.20(6)(d)2. shall be prorated to the  
55 participating counties in the same proportion as that month's  
56 collection of the taxes and fees imposed pursuant to chapter 212  
57 and paragraph (1)(b).

58 (c)1. During each calendar year, the remaining portion of  
59 such proceeds shall be transferred to the Local Government Half-  
60 cent Sales Tax Clearing Trust Fund. Seventy percent of such  
61 proceeds shall be allocated in the same proportion as the  
62 allocation of total receipts of the half-cent sales tax under s.  
63 218.61 and the emergency distribution under s. 218.65 in the  
64 prior state fiscal year. Thirty percent of such proceeds shall  
65 be distributed pursuant to s. 218.67.

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



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69           3. In each calendar year, the proportion of the proceeds  
70 allocated based on the half-cent sales tax under s. 218.61 shall  
71 be allocated to each county in the same proportion as the  
72 county's percentage of total sales tax allocation for the prior  
73 state fiscal year and distributed pursuant to s. 218.62.

74           4. The department shall distribute the appropriate amount  
75 to each municipality and county each month at the same time that  
76 local communications services taxes are distributed pursuant to  
77 subsection (3).

78           Section 4. Section 203.001, Florida Statutes, is amended to  
79 read:

80           203.001 Combined rate for tax collected pursuant to ss.  
81 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.  
82 2010-149, Laws of Florida, the dealer of communication services  
83 may collect a combined rate of 6.28 ~~6.8~~ percent comprised of  
84 6.13 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a)  
85 and 203.01(1)(b)3., respectively, if as long as the provider  
86 properly reflects the tax collected with respect to the two  
87 provisions as required in the return to the Department of  
88 Revenue.

89           Section 5. Subsection (9) of section 202.11, Florida  
90 Statutes, is amended to read:

91           202.11 Definitions.—As used in this chapter, the term:

92           (9) "Prepaid calling arrangement" means: the separately  
93 ~~stated retail sale by advance payment of~~

94           (a) A right to use communications services, other than  
95 mobile communications services, for which a separately stated  
96 price must be paid in advance, which is sold at retail in  
97 predetermined units that decline in number with use on a



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98 predetermined basis, and which ~~that~~ consist exclusively of  
99 telephone calls originated by using an access number,  
100 authorization code, or other means that may be manually,  
101 electronically, or otherwise entered; ~~or and that are sold in~~  
102 ~~predetermined units or dollars of which the number declines with~~  
103 ~~use in a known amount.~~

104 (b) A right to use mobile communications services that must  
105 be paid for in advance and is sold at retail in predetermined  
106 units that expire or decline in number on a predetermined basis  
107 if:

108 1. The purchaser's right to use mobile communications  
109 services terminates upon all purchased units expiring or being  
110 exhausted unless the purchaser pays for additional units;

111 2. The purchaser is not required to purchase additional  
112 units; and

113 3. Any right of the purchaser to use units to obtain  
114 communications services other than mobile communications  
115 services is limited to services that are provided to or through  
116 the same handset or other electronic device that is used by the  
117 purchaser to access mobile communications services.

118  
119 Predetermined units described in this subsection may be  
120 quantified as amounts of usage, time, money, or a combination of  
121 these or other means of measurement.

122 Section 6. Paragraph (e) of subsection (1) of section  
123 212.05, Florida Statutes, is amended to read:

124 212.05 Sales, storage, use tax.—It is hereby declared to be  
125 the legislative intent that every person is exercising a taxable  
126 privilege who engages in the business of selling tangible



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127 personal property at retail in this state, including the  
128 business of making mail order sales, or who rents or furnishes  
129 any of the things or services taxable under this chapter, or who  
130 stores for use or consumption in this state any item or article  
131 of tangible personal property as defined herein and who leases  
132 or rents such property within the state.

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

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

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

140 (I) "Prepaid calling arrangement" has the same meaning as  
141 provided in s. 202.11 ~~means the separately stated retail sale by~~  
142 ~~advance payment of communications services that consist~~  
143 ~~exclusively of telephone calls originated by using an access~~  
144 ~~number, authorization code, or other means that may be manually,~~  
145 ~~electronically, or otherwise entered and that are sold in~~  
146 ~~predetermined units or dollars whose number declines with use in~~  
147 ~~a known amount.~~

148 (II) If the sale or recharge of the prepaid calling  
149 arrangement does not take place at the dealer's place of  
150 business, it shall be deemed to have taken ~~take~~ place at the  
151 customer's shipping address or, if no item is shipped, at the  
152 customer's address or the location associated with the  
153 customer's mobile telephone number.

154 (III) The sale or recharge of a prepaid calling arrangement  
155 shall be treated as a sale of tangible personal property for



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156 purposes of this chapter, whether or not a tangible item  
157 evidencing such arrangement is furnished to the purchaser, and  
158 such sale within this state subjects the selling dealer to the  
159 jurisdiction of this state for purposes of this subsection.

160 (IV) No additional tax under this chapter or chapter 202 is  
161 due or payable if a purchaser of a prepaid calling arrangement,  
162 who has paid tax under this chapter on the sale or recharge of  
163 such arrangement, applies one or more units of the prepaid  
164 calling arrangement to obtain communications services as  
165 described in s. 202.11(9)(b)3., other services that are not  
166 communications services, or products.

167 b. The installation of telecommunication and telegraphic  
168 equipment.

169 c. Electrical power or energy, except that the tax rate for  
170 charges for electrical power or energy is 7 percent.

171 2. The provisions of s. 212.17(3), regarding credit for tax  
172 paid on charges subsequently found to be worthless, are shall be  
173 equally applicable to any tax paid under the provisions of this  
174 section on charges for prepaid calling arrangements,  
175 telecommunication or telegraph services, or electric power  
176 subsequently found to be uncollectible. The term word "charges"  
177 under ~~in~~ this paragraph does not include any excise or similar  
178 tax levied by the Federal Government, any political subdivision  
179 of ~~this the~~ state, or any municipality upon the purchase, sale,  
180 or recharge of prepaid calling arrangements or upon the purchase  
181 or sale of telecommunication, television system program, or  
182 telegraph service or electric power, which tax is collected by  
183 the seller from the purchaser.

184 Section 7. The amendments made to ss. 202.11 and 212.05,



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185 Florida Statutes, by this act are intended to be remedial in  
186 nature and apply retroactively, but do not provide a basis for  
187 an assessment of any tax not paid or create a right to a refund  
188 or credit of any tax paid before the effective date of this act.

189

190 ===== T I T L E A M E N D M E N T =====

191 And the title is amended as follows:

192       Delete line 387

193 and insert:

194       the communications services tax; amending ss. 202.11  
195       and 212.05, F.S.; revising the term "prepaid calling  
196       arrangement" to clarify and update which services are  
197       included under that definition and subject to a sales  
198       tax; providing for retroactive application; amending  
199       s. 212.20,