

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 765 Household Moving Services

SPONSOR(S): Goodson

TIED BILLS: None. **IDEN./SIM. BILLS:** SB 798

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	12 Y, 0 N	Whittier	Luczynski
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Chapter 507, F.S., establishes laws pertaining to the loading, transportation or shipment, unloading, and affiliated storage of household goods as part of household moves and addresses household moving practices in the state that are consistent with federal law governing consumer protection. The chapter applies to the operations of any mover or moving broker engaged in the *intrastate* transportation or shipment of household goods originating and terminating in the state and does not apply to shipments contracted by the U.S., the state, or any local government or political subdivision of the state.

The bill makes the following major changes to Chapter 507, F.S.:

- Provides definitions for “impracticable operations” and “tariff” and revises the definition of mover, clarifying that a mover required to register with the Department of Agricultural and Consumer Services (DACS) does not include a laborer hired only for the purposes of loading and unloading goods;
- Lowers the registration fees for moving brokers;
- Provides that DACS may immediately suspend a mover’s registration or eligibility for registration if a mover does not maintain motor vehicle insurance coverage;
- Provides that a mover must offer valuation coverage and may not limit its liability for the loss or damage of household goods to a specified valuation rate;
- Requires a mover to annually file a tariff with DACS and requires that the tariff be posted and available for public inspection;
- Requires a mover to conduct a physical survey of the household goods to be moved unless the survey is waived by the shipper;
- Requires a mover to provide a binding estimate to the shipper prior to executing a contract for service, which details the total charges for moving the household goods;
- Requires DACS to prepare a publication of rights, responsibilities, and remedies for movers and shippers under the chapter and requires that a mover provide a prospective shipper the published summary of rights and responsibilities, a binding estimate, and copies of the tariff;
- Requires a mover to tender household goods for delivery on the agreed upon delivery date;
- Provides a maximum allowable charge for moving goods and time-frames in which payments should be submitted to the mover;
- Provides that a mover may collect partial payment if part of the shipment of household goods is lost or destroyed and outlines shipper’s rights in the instance of partial/total loss of household goods;
- Provides that DACS can immediately suspend a registration or the processing of an application for registration if the registrant or applicant is formally charged with certain crimes and provides for penalties against shippers who fail to comply with a law enforcement officer’s order to relinquish a shipper’s household goods.

The DACS estimates a net cost (expenditures and decreased revenues) of \$220,741 in FY 15-16 and \$124,793 in FY 16-17. The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0765a.BPS

DATE: 3/17/2015

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 507, F.S., establishes laws pertaining to the loading, transportation or shipment, unloading, and affiliated storage of household goods as part of household moves, and addresses household moving practices in the state that are consistent with federal law governing consumer protection. The chapter applies to the operations of any mover or moving broker engaged in the *intrastate* transportation or shipment of household goods originating and terminating in the state and does not apply to shipments contracted by the U.S., the state, or any local government or political subdivision of the state. Legislative intent provides that “the chapter is intended to secure the satisfaction and confidence of shippers and members of the public when using a mover.”¹

Section 507.01, F.S., provides the following definitions:

- “Household goods” or “goods” means personal effects or other personal property commonly found in a home, personal residence, or other dwelling, including, but not limited to, household furniture. The term does not include freight or personal property moving to or from a factory, store, or other place of business.
- “Household move” or “move” means the loading of household goods into a vehicle, moving container, or other mode of transportation or shipment; the transportation or shipment of those household goods; and the unloading of those household goods, when the transportation or shipment originates and terminates at one of the following ultimate locations, regardless of whether the mover temporarily stores the goods while en route between the originating and terminating locations:
 - From one dwelling to another dwelling;
 - From a dwelling to a storehouse or warehouse that is owned or rented by the shipper or the shipper's agent; or
 - From a storehouse or warehouse that is owned or rented by the shipper or the shipper's agent to a dwelling.
- “Mover” means a person who, for compensation, contracts for or engages in the loading, transportation or shipment, or unloading of household goods as part of a household move. The term does not include a postal, courier, envelope, or package service that does not advertise itself as a mover or moving service.
- “Moving broker” or “broker” means a person who, for compensation, arranges for another person to load, transport or ship, or unload household goods as part of a household move or who, for compensation, refers a shipper to a mover by telephone, postal or electronic mail, Internet website, or other means.
- “Shipper” means a person who uses the services of a mover to transport or ship household goods as part of a household move.

Section 507.03, F.S., requires movers and moving brokers engaged in intrastate moving to register with the Department of Agriculture and Consumer Services (DACS) biennially (every 2 years). The registration fee is \$300 per year for each mover or moving broker. At the time of application or renewal, a \$600 fee is due for the two-year registration.² There are approximately 900 movers and 12 moving brokers in the state.³

A Certificate of Insurance must be provided by the mover showing proof of proper coverage. Insurance and surety must be issued by a company authorized to transact business in this state. The DACS shall

¹ s. 507.02, F.S.

² s. 507.03, F.S.

³ Email from Jonathan Rees, Deputy Director of Legislative Affairs, Department of Agriculture and Consumer Services, RE: the moving industry in the state (Mar. 5, 2015).

be named as a certificate holder and must be notified at least 10 days before cancellation of insurance coverage.⁴ A copy of the policy, declarations page or insurance card will not be accepted.

Coverage must include:

- Liability insurance coverage for the loss or damage of household goods – not less than \$10,000 per shipment.
 - In lieu of maintaining the liability insurance, a mover operating two or fewer trucks is authorized, and a moving broker is required, to file with DACS, a performance bond or certificate of deposit in the amount of \$25,000.⁵
- Motor vehicle coverage, including bodily injury and property damage liability coverage in the following minimum amounts:
 - \$50,000 per occurrence for a commercial motor vehicle with a gross weight of less than 35,000 pounds.
 - \$100,000 per occurrence for a commercial motor vehicle with a gross weight of more than 35,000 pounds, but less than 44,000 pounds.
 - \$300,000 per occurrence for a commercial motor vehicle with a gross weight of 44,000 pounds or more.⁶

A mover may offer valuation coverage to compensate a shipper if there is loss or damage of the shipper's household goods that occurs during a household move. A mover may not limit their liability for the loss or damage of household goods to a valuation rate that is less than 60 cents per pound per article. If a mover limits their liability to less than that rate, the provision of a contract for moving services is void. If a mover limits its liability for a shipper's goods, the mover must disclose the limitation, including the valuation rate, to the shipper in writing at the time that the estimate and contract for services are executed and before any moving or accessorial services are provided. The disclosure must also inform the shipper of the opportunity to purchase valuation coverage if the mover offers that coverage.⁷

Before providing any moving or accessorial services, a contract and estimate must be provided to a prospective shipper in writing, must be signed and dated by the shipper and the mover, and must include:

- The name, telephone number, and physical address where the mover's employees are available during normal business hours.
- The date the contract or estimate is prepared and any proposed date of the move.
- The name and address of the shipper, the addresses where the articles are to be picked up and delivered, and a telephone number where the shipper may be reached.
- The name, telephone number, and physical address of any location where the goods will be held pending further transportation, including situations where the mover retains possession of goods pending resolution of a fee dispute with the shipper.
- An itemized breakdown and description and total of all costs and services for loading, transportation or shipment, unloading, and accessorial services to be provided during a household move or storage of household goods.
- Acceptable forms of payment. A mover shall accept a minimum of two of the three following forms of payment:
 - Cash, cashier's check, money order, or traveler's check;
 - Valid personal check, showing upon its face the name and address of the shipper or authorized representative; or
 - Valid credit card, which shall include, but not be limited to, Visa or MasterCard.⁸

⁴ s. 507.04, F.S.

⁵ s. 507.04(1), F.S.

⁶ s. 507.04(2), F.S.

⁷ s. 507.04(4) and (5), F.S.

⁸ s. 507.05, F.S.

Movers and moving brokers are not currently required to file a tariff with DACS. A tariff is a legal document that includes the exact prices, services, rules, regulations, classifications, policies, and other provisions of the services offered by the mover.⁹ Further, there is no requirement that a mover tender household goods for delivery on the agreed upon delivery date.

The department has no publication that includes a summary of the rights and responsibilities of and remedies available to movers and shippers.¹⁰ There is no provision in the statute for movers to collect a partial payment from a shipper if part of the shipment of household goods is lost or destroyed. Administrative remedies and penalties are: issuing notices of noncompliance; imposing an administrative fine; directing person/business to cease and desist specified activities; refusing to register, revoke, or suspend a registration, or place a registrant on probation.

Effects of Proposed Changes

Legislative intent for the chapter is expanded to include the provision of “consistency and transparency in moving practices” in addition to securing the satisfaction and confidence of shippers and members of the public when using a mover.

The bill adds definitions for the following terms:

- “Impracticable operations” means conditions that make it impossible for a mover to perform pickup or delivery services for a household move with its road haulage equipment.
- “Tariff” means the document filed with the department by a mover under s. 507.045 which reflects its rates and charges for transportation and accessorial services.

The definition of “mover” is clarified to reflect that an individual hired as a laborer to assist a shipper only in the loading and unloading of the shipper’s own household goods is not included as a “mover”.

“Liability Insurance” is retitled “cargo liability insurance” throughout the section. Consequences for failing to maintain insurance coverage are moved from s. 507.04(1), F.S., to s. 507.04(3), F.S. This change does not remove the insurance requirement, it expands it by moving it to a section that refers to both cargo liability insurance and motor vehicle insurance requirements.

The bill decreases the biennial registration fee for a moving broker from \$300 per year to \$100 per year. At the time of application or renewal, a \$200 fee is due for the two-year registration. The registration fee for each mover remains at \$300 per year with the application or renewal for the biennial registration remaining at \$600. The bill removes the requirement for a moving broker to provide *evidence* of current and valid insurance or alternative coverage; however, it does not remove the *actual* requirement for a moving broker to have alternative coverage if they have two or fewer vehicles.

A moving company’s valuation coverage protects a shipper’s goods from damage. Currently, a mover may offer valuation coverage to compensate a shipper if there is loss or damage of the shipper’s household goods that occurs during a household move. The bill changes valuation coverage from an optional offering to a required offering. The current valuation rate permits the mover to limit the liability for the loss or damage of household goods at no less than 60 cents per pound. The bill amends this to require the mover to offer coverage that is no less than the cost of replacement of the goods less depreciated value.

The bill requires each mover to annually file a tariff with DACS which must be posted and available for public inspection. Such tariff must be clear and concise and arranged in a manner that allows a shipper to determine the precise cost of, and the terms of service applicable to, the move. The bill specifies items that the tariff must contain. DACS may reject a tariff that fails to meet the requirements of this section or departmental rule, and such tariff is void and its use is unlawful.

⁹ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2015 House Bill 765, p. 2 (Feb. 24, 2015).

¹⁰ *Id.*

Language is added that details the aspects of physical surveys, the process of waiving a survey, and the provisions of a binding estimate. A physical survey must be performed by the mover to provide an accurate binding estimate unless the goods being shipped are outside of a 50-mile radius of the location of the agent who prepares the estimate. In other instances, a physical survey may be waived if the shipper elects to do so; however, this waiver must be documented in writing and retained by the mover. Before executing a contract for service, and at least 48 hours before the scheduled time and date of a shipment, a mover must provide a binding estimate of the total charges including, but not limited to, the loading, transportation or shipment, and unloading of household goods and accessorial services.

Under the bill, movers are allowed to charge a one-time fee not to exceed \$100 for binding estimates. The estimates should be signed upon completion, with both the mover and shipper maintaining a copy. Movers can amend the estimates if done within the 48-hours preceding the scheduled loading of goods. Further provisions outline exclusions for binding estimates and addendums to the original contract.

The bill provides additional provisions to the contract for service that is provided to the shipper by the mover prior to providing any services. These include: total charges based on the binding estimate and the terms and conditions of the contract, a caveat listing the maximum potential payment if the shipper and mover agree to pay upon delivery, and the recognition of addendums. A copy of the contract must accompany the household goods whenever they are in the mover's possession.

The bill requires DACS to prepare a summary of the rights and responsibilities of, and remedies, available to movers and shippers. The publication must include a form to be signed by the mover and the shipper acknowledging that both parties have read and understand the document. This acknowledgment form, along with the publication, must be attached as a part of the contract for service. The bill outlines the information that must be provided to the shipper by the mover prior to services being rendered.

The bill requires a mover to tender goods on the agreed delivery date or within the time frame specified. If a mover cannot deliver the household goods within the agreed upon time frame, the mover must make every effort to notify the shipper of the delay and provide an amended date of delivery. The DACS notes that, "This will add consumer protection from loss or theft of goods and increase the ability to hold carriers responsible for damages, losses or failures—responsible carriers will be unaffected."¹¹

The bill provides that movers may only charge the amount of the binding estimate, plus any additional services requested or agreed to in writing. A mover is specifically prohibited from charging, demanding, collecting, or receiving compensation for transportation or accessorial services in an amount greater than the rates and charges specified in the tariff that was in effect on the date that the binding estimate was signed by the mover and the shipper.

If a mover is proposing a change to a rate or charge, or the manner in which such rate or charge is calculated, in the tariff, DACS must be notified and the change is not effective until 30 days after the mover provides notice of the proposed change to the department. Upon a showing of good cause, DACS may waive the 30-day notice requirement. Such notice must plainly state the proposed change and its effective date.

Any payment that is not collected upon delivery must be billed within 15-days of delivery. Movers may bill shippers for late fees should the shipper fail to make their payment within 30-days of delivery. The bill does not provide guidelines or limits on the late fees that can be charged by the mover.

Under the bill, movers can collect a partial payment from a shipper if part of the shipment of household goods is lost or destroyed. This could include:

- A prorated percentage of the binding estimate;
- Charges for additional services requested by the shipper after the contract was issued;

¹¹ Florida Department of Agriculture and Consumer SERVICES, Agency Analysis of 2015 House Bill 765, p. 5 (Feb. 24, 2015).

- Charges for impracticable operations (not to exceed 15% of all other charges due at delivery); and
- Any specific valuation rate charges due, if applicable.

It is the responsibility of the mover to determine what amount of the household goods were lost or destroyed during transit. If there was a total loss or destruction, the mover may not request freight charges from the shipper, but can collect a specific valuation rate charge due. If the total loss or destruction was the fault of the shipper, the total loss provisions are not applicable. Further language outlines shipper's rights in regard to collection for losses.

Administrative penalties are revised to include that DACS shall immediately suspend a registration or the processing of an application for registration if the registrant or applicant is formally charged with certain crimes, including: fraud, theft, larceny, embezzlement, or fraudulent conversion or misappropriation of property. Criminal penalties are amended to make reference to the new tariff and binding estimate requirements. Failure of a mover to comply with the order of a law enforcement officer related to the relinquishment of a shipper's household goods, in partial delivery circumstances and meeting certain conditions, is a felony of the third degree. The bill states that complying with the order from law enforcement is not a waiver to seek further payment from the shipper.

B. SECTION DIRECTORY:

Section 1. Amends s. 507.01, F.S., relating to definitions.

Section 2. Amends s. 507.02, F.S., relating to legislative intent.

Section 3. Amends s. 507.03, F.S., relating to registration.

Section 4. Amends s. 507.04, F.S., relating to required insurance coverages, liability limitations, and valuation coverage.

Section 5. Creates s. 507.045, F.S., relating to tariffs.

Section 6. Amends s. 507.05, F.S., relating to physical surveys, binding estimates, and contracts for service.

Section 7. Creates s. 507.054, F.S., relating to a publication of rights and responsibilities.

Section 8. Creates s. 507.055, F.S., relating to disclosures.

Section 9. Amends s. 507.06, F.S., relating to delivery and storage of household goods.

Section 10. Creates s. 507.065, F.S., relating to payment.

Section 11. Creates s. 507.066, F.S., relating to collection for losses.

Section 12. Amends s. 507.07, F.S., relating to violations.

Section 13. Amends s. 507.09, F.S., relating to administrative remedies and penalties.

Section 14. Amends s. 507.11, F.S., relating to criminal penalties.

Section 15. Creates s. 507.14, F.S., relating to rulemaking.

Section 16. Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department of Agriculture and Consumer Services estimates a recurring annual loss of \$2400 resulting from lowering the annual registration fee for moving brokers from \$300 to \$100.

2. Expenditures:

DACS General Inspection Trust Fund¹²

	<u>FY 15-16</u>	<u>FY 16-17</u>
Recurring – Consumer Services		
Salaries and Benefits		
Regulatory Consultant (1)	\$48,941	\$48,941
Senior Clerk (1)	\$35,051	\$35,051
Expenses		
Professional Expense Package (1)	\$6,166	\$6,166
Support Staff Expense Package (1)	\$5,057	\$5,057
Special Category		
Human Resources Allocation (2)	<u>\$688</u>	<u>\$688</u>
TOTAL RECURRING COST	\$95,903	\$95,903
Non-Recurring – Consumer Services		
Expenses		
Professional Expense Package (1)	\$3,882	\$0
Support Staff Expense Package (1)	\$3,666	\$0
Contracted Services		
Software – develop, test, deploy 1,040 hrs @ \$85	<u>\$88,400</u>	<u>\$0</u>
TOTAL NONRECURRING COST	\$95,948	\$0

¹² Florida Department of Agriculture and Consumer Services, Agency Analysis of 2015 House Bill 765, p.6 (Feb. 24, 2015).

TOTAL RECURRING/ NONRECURRING COST	\$191,851	\$95,903
Non-Operating Cost		
Information Technology Support	\$4,930	\$4,930
Administrative/Indirect Cost	\$10,567	\$10,567
General Revenue Service Charge	<u>\$10,992</u>	<u>\$10,992</u>
TOTAL NON-OPERATING COST	\$26,490	\$26,490
EXPENDITURES GRAND TOTAL	\$218,341	\$122,393
NET LOSS (including lost revenues)	\$220,741	\$124,793

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

C. FISCAL COMMENTS:

On March 11, 2015, the Criminal Justice Impact Conference estimated that the new felony created in the bill would have an insignificant fiscal impact on the state, in terms of impacting prison beds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No new rule-making authority is created, but the authority for DACS to adopt rules to administer the chapter is moved from s. 507.09, F.S., to s. 507.14, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On line 162, the bill removes the requirement for a moving broker to provide *evidence* of current and valid insurance or alternative coverage; however, on line 193, it does not remove the *actual* requirement for a moving broker to have alternative coverage if they have two or fewer vehicles.

The language in lines 402-405, permitting the mover to perform and bill for additional services that the shipper has not agreed to pay for, may create a loophole for movers to add charges without the shipper's consent.

Lines 570-572 authorize a mover to bill a shipper for late fees should the shipper fail to make their payment within 30-days of delivery; however, the bill does not provide guidelines or limits on the late fees that can be charged by the mover.

Line 623 references "requirement under this part." Chapter 507 does not contain parts. Based on the context of the provision, a reference to "chapter" may be more appropriate.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.