

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 765 Household Moving Services

**SPONSOR(S):** Regulatory Affairs Committee; Agriculture & Natural Resources Appropriations Subcommittee; Goodson

**TIED BILLS:** None. **IDEN./SIM. BILLS:** CS/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	12 Y, 0 N, As CS	Lolley	Massengale
3) Regulatory Affairs Committee	17 Y, 0 N, As CS	Whittier	Hamon

### 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 “additional services,” “impracticable operations,” and “personal laborer” and revises the definition of mover, clarifying that a mover does not include a personal laborer;
- Provides that the Department of Agricultural and Consumer Services (DACS) may immediately suspend a mover’s registration or eligibility for registration if a mover does not maintain insurance coverage;
- Provides that a mover must offer valuation coverage for cost of repair or replacement of goods and may not limit its liability for the loss or damage of household goods to a specified valuation rate;
- 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, unless waived by the shipper;
- 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 and an accurate binding estimate;
- Requires a mover to relinquish household goods on the agreed upon delivery date;
- Provides a maximum allowable charge for moving goods and provides time-frames in which payments should be submitted to the mover;
- 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 rule-making authority to DACS.

The bill has no fiscal impact on state and local governments and a fiscal impact on the private sector. See *Fiscal Analysis & Economic Impact Statement* for more details.

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:** h0765e.RAC

**DATE:** 4/16/2015

## 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.”<sup>1</sup>

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.<sup>2</sup> There are approximately 900 movers and 12 moving brokers in the state.<sup>3</sup>

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

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<sup>1</sup> s. 507.02, F.S.

<sup>2</sup> s. 507.03, F.S.

<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>
- 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.<sup>6</sup>

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.<sup>7</sup>

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.<sup>8</sup>

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<sup>4</sup> s. 507.04, F.S.

<sup>5</sup> s. 507.04(1), F.S.

<sup>6</sup> s. 507.04(2), F.S.

<sup>7</sup> s. 507.04(4) and (5), F.S.

<sup>8</sup> s. 507.05, F.S.

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.<sup>9</sup> 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:

- "Additional services" means any additional transportation of household goods that is performed by a mover, is not specifically included in a binding estimate or contract, and results in a charge to the shipper.
- "Impracticable operations" means conditions arising after the execution of a contract for household moving services that make it impractical for a mover to perform pickup or delivery services for a household move.
- "Personal laborer" means an individual hired directly by the shipper to assist in the loading or unloading of the shipper's own household goods. The term does not include any individual who has contracted with or is compensated by a third-party or whose services are brokered as part of a household move.

The definition of “mover” is clarified to reflect that a personal laborer is not 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.

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 for the costs of repair or replacement of goods, unless waived or amended by the shipper by signed or electronic acknowledgment in the contract for service. Further, the mover must disclose the terms of the coverage, including any deductibles, to the shipper in writing within the binding estimate and again when the contract for services is executed and before any moving services are provided, and the disclosure must inform the shipper of the cost of the valuation coverage, if any.

The bill requires the mover to perform a physical survey of the goods to be moved and to provide an accurate binding estimate of the moving cost to the shipper. In other instances, a physical survey may be waived if the shipper elects to do so; however, this waiver must be documented in writing, signed by the shipper, and retained by the mover as an addendum to the contract. 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. The shipper may waive the binding estimate if done so at least 48 hours before the household goods are loaded. The shipper may

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<sup>9</sup> *Id.*

also waive the 48-hour period if the move begins within 48 hours after the shipper's initial contact with the mover. The binding estimate must be signed by the mover and the shipper.

Movers can amend the estimates preceding the scheduled loading of goods if the shipper has requested additional services. Further provisions outline what must be included within the binding estimates and exclusions for binding estimates and addendums to the original contract.

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 statement that the mover's failure to relinquish household goods constitutes a third degree felony and that any violation of chapter 507 constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act. The publication must also include a notice to the shipper about the potential risks of shipping sentimental or family heirloom items. The shipper is required to acknowledge in writing or electronically receipt of the publication.

Prior to executing the contract, the bill requires the mover to provide to the shipper the publication and a "concise, easy-to-read, and accurate binding estimate."

The bill requires a mover to relinquish goods on the agreed delivery date or within the time frame specified in the contract, unless waived by the shipper. If a mover cannot deliver the household goods within the agreed upon time frame, the mover must notify the shipper of the delay and provide an amended date or timeframe of pickup or delivery of goods "in a timely manner."

The bill provides that movers may only charge the amount of the binding estimate, unless waived by the shipper, plus charges for any additional services requested or agreed to in writing by the shipper after the contract was issued and for impracticable operations, if applicable.

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.

Violation language is amended in the bill and 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.

## **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. 507.04, F.S., relating to required insurance coverages, liability limitations, and valuation coverage.

**Section 4.** Amends s. 507.05, F.S., relating to physical surveys, binding estimates, and contracts for service.

**Section 5.** Creates s. 507.054, F.S., relating to a publication of rights and responsibilities.

**Section 6.** Creates s. 507.055, F.S., relating to disclosures.

**Section 7.** Amends s. 507.06, F.S., relating to delivery and storage of household goods.

**Section 8.** Creates s. 507.065, F.S., relating to payment.

**Section 9.** Amends s. 507.07, F.S., relating to violations.

**Section 10.** Amends s. 507.09, F.S., relating to administrative remedies and penalties.

**Section 11.** Amends s. 507.11, F.S., relating to criminal penalties.

**Section 12.** Creates s. 507.14, F.S., relating to rulemaking.

**Section 13.** Provides an effective date of July 1, 2015.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill changes valuation coverage from an optional offering to a required offering and requires the mover to offer coverage for cost of repair or replacement of goods, unless waived or amended by the shipper.

The bill specifies that movers may only charge the amount of the binding estimate, plus any additional services requested or agreed to in writing.

### **D. FISCAL COMMENTS:**

None.

## **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:**

DACS is directed to adopt rules to administer the chapter.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

Lines 473-478 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.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 7, 2015, the Agriculture & Natural Resources Appropriations Subcommittee adopted a strike all amendment and reported the bill favorably as a committee substitute. The strike all amendment:

- Adds definitions.
- Requires a mover to offer valuation coverage for cost of repair or replacement of goods unless waived or amended by shipper.
- Removes the requirement that a mover must annually file a tariff with DACS.
- Specifies that a mover must conduct a physical survey, regardless of location.
- Specifies that a shipper may waive the binding estimate and/or the 48-hour period before scheduled shipment.
- Removes the one-time fee for providing a binding estimate.
- Removes a third degree felony for a mover that does not relinquish a shipper's household goods as ordered by law enforcement.

On April 14, 2015, the Regulatory Affairs Committee adopted an amendment removing language that specified the amount of payment that a mover could collect upon delivery of partially lost or destroyed household goods and prohibited a mover from collecting or requiring a shipper to pay any charges other than specific valuation rate charges if a shipment was totally lost or destroyed in transit.

The bill was reported favorably as a committee substitute. This analysis is drafted to the committee substitute as passed by the Regulatory Affairs Committee.