

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

BILL: SB 7020

INTRODUCER: Judiciary Committee

SUBJECT: Delivery of Notices

DATE: January 23, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Collazo</u>	<u>Cibula</u>		JU Submitted as Committee Bill/FAV
1.	<u>Blizzard</u>	<u>Betta</u>	<u>AEG</u>	Favorable
2.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 7020 amends the statute defining “registered mail” to expand upon the kinds of delivery services that may be used to comply with statutory registered mail requirements in this state.

The bill explicitly provides that registered mail requirements may be satisfied by using not only services offered by the U.S. Postal Service, but also private delivery services, so long as criteria in the bill are met. The effect of the bill is to eliminate ambiguity as to whether other forms of delivery can also demonstrate compliance with statutory registered mail requirements, and to give persons seeking to comply with those requirements greater flexibility in choosing an acceptable form of delivery.

The bill provides that its amendments are remedial in nature and apply retroactively.

The bill has no fiscal impact on state revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Section 1.01, F.S., defines “registered mail” to include “certified mail with return receipt requested.”¹ The term is significant because the Florida Statutes contain hundreds of references to “registered mail” (and “certified mail” and “return receipt”), which contemplate the use of services traditionally provided by the U.S. Postal Service to confirm that legal documents (e.g. required notice or service of process) have been delivered to an intended recipient.

¹ Section 1.01(11), F.S.

Certified Mail

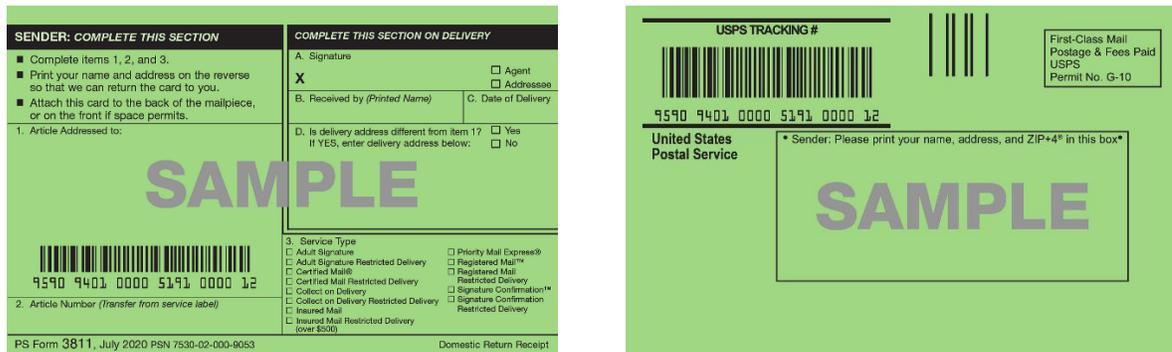
With respect to the “certified mail” component of registered mail, the U.S. Postal Service will provide the sender (if requested, and for a small fee),² a mailing receipt (PS Form 3800, Certified Mail Receipt) as confirmation that an item was sent. Although certified mail does also require a signature from the recipient, it does not provide the sender a return receipt with proof of signature, unless that service is separately requested (see below).³



PS Form 3800, Certified Mail Receipt (front and back)⁴

Return Receipt

With respect to the “return receipt” component of registered mail, the U.S. Postal Service will return to the sender (if requested, and for a small fee),⁵ a green postcard popularly known as a “Green Card” (PS Form 3811, Domestic Return Receipt) signed by the recipient. The purpose of the Green Card is to provide a sender evidence that an item has been delivered to an intended recipient. Return receipt is also available in electronic form only.⁶



PS Form 3811, Domestic Return Receipt (front and back)⁷

² The fee for Certified Mail is \$4.35; the fee for Certified Mail Restricted Delivery is \$11.45; the fee for Certified Mail Adult Signature Required is \$11.45; and the fee for Certified Mail Adult Signature Restricted Delivery is \$11.45. U.S. Postal Service, *Notice 123 (Price List)*, July 9, 2023, <https://pe.usps.com/text/dmm300/Notice123.htm>.

³ U.S. Postal Service, *Certified Mail – The Basics*, <https://faq.usps.com/s/article/Certified-Mail-The-Basics> (last visited Jan. 3, 2024).

⁴ *Id.*

⁵ The fee for Return Receipt on a hard copy Green Card is \$3.55, and for Return Receipt in electronic form is \$2.20. U.S. Postal Service, *Notice 123 (Price List)*, July 9, 2023, <https://pe.usps.com/text/dmm300/Notice123.htm>.

⁶ U.S. Postal Service, *Return Receipt – The Basics*, <https://faq.usps.com/s/article/Return-Receipt-The-Basics> (last visited Jan. 3, 2024).

⁷ *Id.*

Traditional Reliance on the U.S. Postal Service

It is unclear from a plain reading of the statutory definition of registered mail whether other forms of delivery, either through the U.S. Postal Service or alternative private delivery services, could also demonstrate compliance with registered mail requirements. For this reason, litigants, contractors, attorneys, and others in this state have traditionally relied upon the U.S. Postal Service certified mail and return receipt services as a kind of “safe harbor” way of satisfying these requirements.

For example, consider a situation where a litigant has delivered a required notice to an opposing party via Federal Express with a signature required; the basic purpose of registered mail requirements, which is to ensure that the recipient actually received the notice on a date certain, has arguably been accomplished. On the other hand, based upon the language in the statute specifically referring to “certified mail with return receipt requested,” the opposing party could argue that the definition of registered mail only contemplates delivery via the U.S. Postal Service, not Federal Express. Accordingly, the argument would be that the delivery of the notice via Federal Express does not demonstrate compliance with statutory requirements and is therefore invalid.

This dynamic exists against the backdrop of a changing landscape for U.S. Postal Service practices. On January 16, 2020, the Postal Regulatory Commission approved a U.S. Postal Service request to eliminate return receipts for merchandise service.⁸ Although the U.S. Postal Service has not yet eliminated return receipts for other kinds of domestic mail such as legal documents, it could choose to do so in the future.

III. Effect of Proposed Changes:

The bill amends the statute defining “registered mail” to expand upon the kinds of delivery services that may be used to comply with statutory registered mail requirements in this state.

Specifically, the bill amends the definition of “registered mail” to explicitly include any delivery service by the U.S. Postal Service or a private delivery service that is regularly engaged in the delivery of documents which provides proof of mailing or shipping and proof of delivery. Proof of delivery must be established by a receipt that is signed by the addressee or other responsible person at the delivery address.

The bill defines “return receipt requested” to include a delivery confirmation service by the U.S. Postal Service or a private delivery service that is regularly engaged in the mailing or shipping of documents and that confirms delivery by receipt that is signed by the addressee or other responsible person at the delivery address.

The effect of the bill is to eliminate ambiguity as to whether other forms of delivery can also demonstrate compliance with statutory registered mail requirements, and to give persons seeking to comply with those requirements greater flexibility in choosing an acceptable form of delivery.

⁸ U.S. Postal Service, *Postal Bulletin* 22546 (May 21, 2020), at 15, <https://about.usps.com/resources/postal-bulletin.htm>.

The bill provides that its amendments to the definition of registered mail are remedial in nature and apply retroactively.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Generally, remedial and procedural laws may be applied retroactively without violating the Florida Constitution, while substantive laws may not be applied retroactively if they abolish or curtail protected rights or impose unconstitutional obligations.⁹ Because the bill clearly provides that it is remedial in nature and intended to apply retroactively, and in any case does not abolish or curtail protected rights or impose unconstitutional obligations, it may be constitutionally applied retroactively.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private delivery services may see increases in revenue associated with greater use of their services by persons seeking to comply with statutory registered mail requirements.

C. Government Sector Impact:

The U.S. Postal Service may see decreases in revenue associated with reduced use of its services by persons seeking to comply with statutory registered mail requirements.

⁹ *Patronis v. United Insurance Company of America*, 299 So. 3d 1152, 1156-57 (Fla. 1st DCA 2020).

State agencies that send out large quantities of mail will have an additional option which may result in a cost savings due to implementation of this bill. For example, the Department of Revenue has requirements in place for issuance of certain child support and tax related documents that are only allowed to be mailed by certified mail.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1.01 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.