

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2150

SPONSOR: Commerce, Economic Opportunities, and Consumer Services Committee and
Senator Lynn

SUBJECT: Moving Services

DATE: April 1, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Kruse</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>BI</u>	_____
4.	_____	_____	<u>JU</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute provides small moving companies, when registering with the Department of Agriculture and Consumer Services, the option of submitting a bond or certificate of deposit instead of purchasing cargo legal liability insurance now required by law. The option applies to a mover who operates fewer than three vehicles. The bond or certificate of deposit must list the department as the beneficiary and must be used for the benefit of any consumer who is injured by the fraud, misrepresentation, breach of contract, or financial failure of a mover. The bond or certificate of deposit may only be used for payment of claims adjudicated in an administrative proceeding with the department. The bond or certificate of deposit is open to successive claims, but the aggregate amount of claims may not exceed the amount contained in the bond or certificate of deposit.

This committee substitute substantially amends ss. 507.03 and 507.04 of the Florida Statutes.

II. Present Situation:

The Legislature in 2002 enacted ch. 507, F.S, to regulate the intrastate moving industry in Florida.¹ A mover is defined as any person who engages in the transportation or shipment of household goods for compensation.² Any mover wishing to do business in Florida must register annually with the Department of Agriculture and Consumer Services.³ To obtain a registration

¹ Chapter 2002-53, L.O.F.

² Section 507.01(8), F.S.

³ Section 507.03(1), F.S.

certificate, the mover must file an application, pay a registration fee in the amount of \$300,⁴ and meet statutory qualifications, including proof of insurance coverage.⁵

The law requires a mover to maintain cargo liability insurance coverage in the amount of at least \$10,000 per shipment⁶ and limits the mover's liability to not less than 60 cents per pound of cargo.⁷ A mover must also maintain minimum limits of motor vehicle coverage in the amounts of: \$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; and \$300,000 per occurrence for a commercial motor vehicle with a gross weight of 44,000 pounds or more.⁸

If the department finds that a mover has violated any of the provisions of the law or the rules or orders issued thereunder, the department may enter an order doing one or more of the following:

- Issuing a notice of noncompliance under s. 120.695, F.S.
- Imposing an administrative fine not to exceed \$5,000 for each act or omission.
- Directing that the person cease and desist specified activities.
- Refusing to register or revoking or suspending a registration.
- Placing the registrant on probation for a period of time, subject to such conditions as the department may specify.⁹

Since implementation of the 2002 law, some small moving company owners have reported to the department that the owners have encountered difficulty obtaining the required liability insurance or discovered that the insurance is very expensive to purchase.

III. Effect of Proposed Changes:

The committee substitute amends s. 507.03, F.S., by revising mover registration requirements to allow certain movers the option of providing proof of bonding instead of proof of insurance coverage when registering with the Department of Agriculture and Consumer Services. A mover, depending on the number of trucks it operates, is provided the option of submitting evidence of current and valid insurance coverage or a bond or certificate of deposit.

The committee substitute provides that for a mover who operates three or more vehicles, the mover must maintain current and valid cargo legal liability valuation and insurance coverage for loss or damage to household goods arising or resulting from the negligence of the mover, its employees, or its agents, in an amount not less than \$10,000 per shipment. The committee substitute also provides a mover who operates fewer than three vehicles the option of maintaining cargo legal liability coverage or maintaining a performance bond in the amount of \$25,000. The bond must be issued by a surety authorized to do business in this state. In lieu of the bond, the mover may establish a certificate of deposit in a state banking institution.

⁴ *Id.* at (3).

⁵ *Id.* at (9).

⁶ Section 507.04(1)(a), F.S.

⁷ *Id.* at (1)(c).

⁸ *Id.* at (1)(b)1.-3., F.S.

⁹ Section 507.09(1)(a)-(e), F.S.

The committee substitute provides that the original bond or certificate of deposit must:

- be filed with the department;
- name the department as the beneficiary; and
- be made in favor of the department for the use and benefit of any consumer who is injured by the fraud, misrepresentation, breach of contract, or financial failure of the mover, or by the violation of any provision of this chapter by the mover.

The committee substitute provides that any liability may be enforced either in a proceeding in an administrative action or by filing a judicial suit at law in a court of competent jurisdiction. However, the committee substitute limits the use of the bond or certificate of deposit to payment of claims adjudicated by the department. The committee substitute also provides that the aggregate payout may not exceed the amount of the bond or certificate of deposit.

The committee substitute 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.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to representatives of the Florida Movers and Warehousemen's Association, obtaining a bond may be slightly more expensive than purchasing insurance in the long run. However, obtaining a bond does offer an option for small moving companies that are unable to obtain cargo legal liability coverage. It is unknown what costs, if any, will be realized by moving companies that exercise this option.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
