

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.)

Prepared By: Transportation Committee

BILL: CS/SB 970

SPONSOR: Senator Campbell

SUBJECT: Household Moving Services

DATE: April 12, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/CS
2.			CM	
3.			BI	
4.			CA	
5.				
6.				

I. Summary:

CS/SB 970 amends Chapter 507, Florida Statutes, also known as the “Intrastate Moving Law” to:

- Change the title of the chapter from “Interstate Moving Law” to be redesignated as “Household Moving Services”;
- Expand and clarify certain existing definitions and to add definitions for the terms “household move”, “moving broker”, and “moving container”;
- Require moving brokers to register with the Department of Agriculture and Consumer Services (department) and post specific financial security. A mover operating two or fewer vehicles may post a performance bond or certificate of deposit in the amount of \$25,000 in lieu of the cargo legal liability coverage;
- Regarding advertising requirements, requires each movers’ vehicle to display signage with a minimum letter height of 1.5 inches;
- Clarify additional insurance valuation coverage requirements for coverage of a consumer’s goods;
- Provide the department may suspend registration and seek civil penalties for failure to carry valid insurance;
- Clarify the requirements for limitation of liability disclosure to the consumer; and
- Provide a county or municipality may not issue an occupational license unless the mover or broker has a current registration with the department.

This CS substantially amends ss. 507.01, 507.02, 507.03, 507.04, 507.05, 507.06, 507.07, 507.08, 507.09, 507.10, 507.11, 507.12, and 507.13; and creates s. 205.1975 of the Florida Statutes.

II. Present Situation:

Regulation of Moving Services

In 2002 the Legislature 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.³ To obtain a registration 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 a mover has violated any of the provisions of the law, 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 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

Surety Bonds

A surety bond is a contractual arrangement between the surety (insurer selling the bond), the principal (here, the mover), and the obligee (here, the customer of the insurer) whereby the surety agrees to protect the obligee if the principal defaults in performing the principal's contractual obligations.¹⁰ The bond serves to create joint and several liability between the principal and the surety, allowing the obligee to collect from either party. Surety bonds are sold by licensed property and casualty insurers in Florida. A major difference between a surety bond

¹ Chapter 2002-53, L.O.F.

² Section 507.01(8), F.S.

³ Section 507.03(1), F.S.

⁴ Section 507.03(3), F.S.

⁵ Section 507.03(9), F.S.

⁶ Section 507.04(1)(a), F.S.

⁷ Section 507.04(1)(c), F.S.

⁸ Section 507.04(1)(b)1.-3., F.S.

⁹ Section 507.09(1)(a)-(e), F.S.

¹⁰ Blacks Law Dictionary, pg. 181 (Deluxe 6th ed. 1990).

and a standard property and casualty insurance policy is the surety bond does not protect the principal against a judgment. Thus, in the case of a mover, the surety (insurer) would have the right to recover from the principal (mover) the full amount of any damages paid out by the surety pursuant to a judgment.

III. Effect of Proposed Changes:

The following discussion represents a section-by-section analysis of the CS:

Section 1 requests the Division of Statutory Revision to redesignate the title of ch. 507, F.S., as “Household Moving Services.”

Section 2 amends s. 507.01, F.S., to revise definitions; to define new terms; to clarify licensing requirements for household movers and moving brokers; and to clarify and conform provisions. Specifically, the CS defines the following new terms:

- “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 owned or rented by the shipper or the shipper’s agent; or
 - From a storehouse or warehouse owned or rented by the shipper or the shipper’s agent to a dwelling.
- “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.
- “Moving container” means a receptacle holding at least 225 cubic feet of volume which is used to transport or ship household goods as part of a household move.

In addition, “mover” is redefined to mean 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.

Section 3 amends s. 507.02, F.S., to clarify the construction, application and intent of the licensing requirements.

Section 4 amends s. 507.03, F.S., to require moving brokers to register with the department; to provide registration requirements and fees; to provide for certificate of registration; to require display of certificate; to clarify registration requirements for household movers and moving brokers; to require brokers to obtain local registration or license under certain circumstances; to revise advertising requirements; to require each mover’s vehicle to clearly and conspicuously display a sign on the driver’s side door which includes at least the “Fla. Mover Reg. No.” or “FL

IM No.” in lettering of at least 1.5 inches in height; to provide for denial, refusal to renew, or revocation of registration of mover or moving broker; to require brokers to provide evidence of certain insurance coverage; and to revise requirements for a mover to provide evidence of certain insurance coverage.

Section 5 amends s. 507.04, F.S., to clarify requirements that a mover maintain certain insurance coverage; to require a mover to submit evidence of liability insurance before registration; to provide requirements for liability insurance coverage; to authorize the department to suspend a mover's registration and seek an injunction in circuit court if the mover fails to maintain insurance coverage; to provide penalties; to authorize certain movers and require moving brokers to maintain a performance bond or certificate of deposit in lieu of certain liability insurance coverage; to provide requirements for the performance bond or certificate of deposit; to provide for payment of claims pursuant to a department order in an administrative proceeding; to specify insurance coverage must be issued by a licensed insurance company or carrier; to prohibit certain limits of liability for a mover's loss or damage of a shipper's goods; to require certain disclosures of liability limitations; to authorize a mover to offer valuation coverage under specified conditions; to provide valuation coverage meeting specified conditions satisfies certain liability of a mover; and to require certain disclosures of valuation coverage.

Specifically, relating to liability insurance, the CS provides all insurance coverage maintained by a mover must remain in effect throughout the mover's registration period. If a mover fails to maintain insurance coverage, the department may immediately suspend the mover's registration or eligibility for registration and the mover must immediately cease operations. In addition, and notwithstanding the availability of any administrative relief pursuant to ch. 120, F.S., the department may seek from the appropriate circuit court an immediate injunction prohibiting the mover from operating in this state until the mover complies with the insurance requirements, and pays a civil penalty not to exceed \$5,000 and court costs.

Also, the CS allows a mover operating two or fewer vehicles, in lieu of maintaining the liability insurance coverage of at least \$10,000 per shipment, may, and each moving broker must, maintain one of the following alternative coverages:

- A performance bond in the amount of \$25,000, for which the surety of the bond must be a surety company authorized to conduct business in this state; or
- A certificate of deposit in a Florida banking institution in the amount of \$25,000.

The CS provides the original bond or certificate of deposit must:

- be filed with the department;
- name the department as the beneficiary; and
- be used exclusively for the payment of claims to consumers who are injured by the fraud, misrepresentation, breach of contract, misfeasance, malfeasance, or financial failure of the mover or moving broker, or by the violation of any provision of this chapter by the mover or moving broker.

The CS provides any liability for the injuries may be determined either in an administrative proceeding of the department or through a civil action in a court of competent jurisdiction. However, the CS limits the use of the bond or certificate of deposit to payment of claims in

amounts not to exceed the determined liability for the injuries, by order of the department in an administrative proceeding. The CS also provides the aggregate payout may not exceed the amount of the bond or certificate of deposit.

Section 6 amends s. 507.05, F.S., to make technical CS drafting changes.

Section 7 amends s. 507.06, F.S., to revise provisions for the delivery and storage of household goods. Specifically, a mover must relinquish household goods to a shipper and must place the goods inside a shipper's dwelling, or if directed by the shipper, inside a storehouse or warehouse owned or rented by the shipper or the shipper's agent, unless the shipper has not tendered payment in the amount specified in a written contract or estimate signed and dated by the shipper. In addition, a mover may not refuse to relinquish household goods to a shipper or fail to place the goods inside a shipper's dwelling or, if directed by the shipper, inside a storehouse or warehouse owned or rented by the shippers or the shipper's agent, based on the mover's refusal to accept an acceptable form of payment.

Section 8 amends s. 507.07, F.S., to provide it is a violation to conduct business as a moving broker without first being registered annually with the department; to specify the making of certain false statements is a violation of ch. 507, F.S., regardless of whether the statements are material; to make clarifying and conforming changes as a result of the CS relating to prohibited acts and violations.

Section 9 amends s. 507.08, F.S., to make clarifying and conforming changes as a result of the CS relating to deceptive and unfair trade practices.

Section 10 amends s. 507.09, F.S., to make clarifying and conforming changes as a result of the CS relating to administrative remedies and penalties.

Section 11 amends s. 507.10, F.S., to make conforming changes as a result of the CS relating to civil penalties and remedies.

Section 12 amends s. 507.11, F.S., to make conforming changes as a result of the CS relating to criminal penalties.

Section 13 amends s. 507.12, F.S., to make conforming changes as a result of the CS relating to payments into the General Inspection Trust Fund.

Section 14 amends s. 507.13, F.S., to make conforming changes as a result of the CS relating to local regulations.

Section 15 creates s. 205.1975, F.S., to prohibit a county or municipality from issuing or renewing an occupational license for the operation of a mover or moving broker under ch. 507, F.S., unless the mover or broker exhibits a current registration from the department.

Section 16 provides this act shall take effect July 1, 2005.

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:

This CS requires moving brokers to annually register with the department, submit a form of security deposit in the amount of \$25,000, and pay a \$300 registration fee. The CS also requires movers to include signage at least 1.5 inches in height on their moving vehicles. In addition, the CS allows movers with less than 3 trucks to submit security to the department in the amount of \$25,000, in lieu of the required liability insurance coverage.

Movers are currently required to pay an annual \$300 registration fee to the department and this CS extends this requirement to moving brokers as well. According to the department, some recurring revenue may accrue to the General Inspection Trust Fund housed within the department from the annual registration fee that would be collected from moving brokers. This amount is indeterminate as there are no statistics available on the number of moving brokers in Florida.

C. Government Sector Impact:

According to the department, an indeterminate amount of recurring revenue would accrue to the General Inspection Trust Fund from the annual \$300 registration fee for moving brokers, as there are no statistics available for the number of moving brokers in Florida.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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