



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government** – The bill preempts to the state regulation of the intrastate moving industry.

**Safeguard individual liberty** – The bill protects a mover’s right to refuse to transport certain items and also protects a mover’s historic common law rights regarding liability of certain losses

### B. EFFECT OF PROPOSED CHANGES:

#### History:

At the request of the household moving industry, the 2002 Legislature<sup>1</sup> enacted laws regulating the intrastate moving industry in Florida. The law requires any mover wishing to do business in the state to register annually with the Department of Agriculture and Consumer Services (department). To obtain a registration certificate, the mover must file an application, pay a registration fee in the amount of \$300, and meet statutory qualifications.

The law requires a mover to maintain cargo liability insurance coverage in the amount of \$10,000 per shipment and limits the mover’s liability to not less than 60 cents per pound of cargo. Minimum limits of motor vehicle coverage are also specified in the amounts of \$50,000, \$100,000, and \$300,000 per occurrence, based on gross weight categories.

If the department finds a mover in violation of any provisions of the law, rules or orders, the department may do one or more of the following:

- Issue a notice of noncompliance under s. 120.695, F.S.
- Impose an administrative fine not to exceed \$5,000 for each act or omission
- Direct the person to cease and desist specified activities
- Refuse to register, revoke, or suspend a registration
- Place the registrant on probation for a period of time, subject to such conditions as the department may specify<sup>2</sup>

The 2006 Legislature<sup>3</sup> amended Chapter 507, Florida Statutes, to:

- Change the title of the chapter from “Intrastate Moving Law” to “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 and post specific financial security. A mover that operates two or fewer vehicles may, and moving brokers must, post a performance bond or certificate of deposit in the amount of \$25,000 in lieu of the cargo legal liability coverage.
- Specify that making certain false statements is a violation, regardless of whether the statements are material.
- Require movers’ vehicle display signage to have a minimum letter height of 1.5 inches.
- Authorize additional insurance valuation coverage requirements for coverage of a consumer’s goods.

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<sup>1</sup> Ch. 2002-53, Laws of Florida

<sup>2</sup> s. 507.09(1)(a)-(e), F.S.

<sup>3</sup> Ch. 2006-4, Laws of Florida

- Require the mover to disclose the cost and rate of the coverage in writing at the time the estimate and contract for services is executed.
- Provide that the department may suspend registration and seek civil penalties for failure to carry valid liability insurance.
- Prohibit certain limits of liability for a mover's loss of or damage to a shipper's goods.
- Require disclosure of liability limitations to the consumer.
- Provide that any liability may be enforced either by an administrative action or by filing an action in a court of competent jurisdiction; however, the bill limits the use of the bond or certificate of deposit to payment of claims adjudicated by the department.
- Provide that a county or municipality may not issue an occupational license unless the mover or broker has a current registration with the department.
- Amend the definition of "self-contained storage unit" in Chapter 83, Florida Statutes, as any unit not less than 200 cubic feet.

Proposed changes:

The bill revises the existing definition of the term "storage" by narrowing it to mean the temporary warehousing of a shipper's goods while under the care, custody, and control of a mover.

The bill also modifies the legislative intent section of the Household Moving Services law to provide that the law does not supersede certain rights of a mover to refuse to transport certain items, or the mover's common law right to exclude liability of certain cause of loss, provided the terms are in the estimate and contract for services. According to the department, modifying the Legislative intent to permit a mover to exclude liability for damaging goods based on the mover's "common law rights" would significantly increase litigation in this area to determine the applicability and extent of such rights. Movers could exclude liability completely for many items rather than provide even the minimum statutory release valuation of sixty cents per pound.<sup>4</sup>

Additionally, the requirement is removed for movers and brokers to obtain local license or registration when their primary place of business is located in a county or municipality that has a local ordinance requiring a local license or registration.

Finally, the bill preempts to the state regulation of movers of household goods and moving brokers. (Broward, Miami-Dade, Palm Beach, and Pinellas Counties currently have ordinances regulating household moving.) According to the department, the preemption, as framed in the bill, does not expand the duties or responsibilities of the department.

It is the contention of the household moving industry that, "*local regulation confuses and misleads consumers who need a single set of laws and point of contact, not multiple license numbers, puzzling disclosures that appear to conflict with state law, and consumer affairs departments that have been shown to be inconsistent in their complaint policies.*"

C. SECTION DIRECTORY:

**Section 1.** Amends s. 507.01, F.S., to change the definition of the term "storage".

**Section 2.** Amends s. 507.02, F.S., to state that chapter 507, F.S., does not supersede certain rights of a mover to refuse to transport certain items or the right to exclude liability of certain cause of loss provided the terms are in the estimate and contract for services.

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<sup>4</sup> The amount of \$0.60 per pound release valuation appears in caselaw as far back as 1963; in a prior administrative case before the Department, counsel for the mover argued the valuation has been in place for interstate transportation since 1956. Adjusted for inflation, a \$0.60 per pound valuation in 1956 would be worth \$4.36 per pound in 2006 (independent CPI calculator), \$4.47 per pound in 2007 (U.S. Gov't CPI calculator). For 1963: \$3.86 in 2006 (indep. calc.), \$3.97 in 2007 (U.S. CPI).

**Section 3.** Amends s. 507.03, F.S., to remove the requirement for certain movers and brokers to obtain a local license or registration and to remove the requirement for such movers and brokers to pay state registration fees as well as local fees.

**Section 4.** Amends s. 507.13, F.S., to preempt to the state the regulation of movers of household goods and moving brokers.

**Section 5.** Provides an effective date of July 1, 2007.

## 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:

Indeterminate; see fiscal comments.

2. Expenditures:

None

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

In its statement of support for the bill, the household moving industry states that, *“By preempting local moving ordinances, you remove an unnecessary and duplicative financial and administrative burden from reputable movers.”*

### D. FISCAL COMMENTS:

Due to the preemption of local ordinances and regulations that might require the levy of fees and taxes by local governments for the registration or bonding of movers or moving brokers, there could be an indeterminate loss of revenue to these local governments.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

No statement submitted.

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 14, 2007, the Committee on Agribusiness adopted an amendment to HB 765. The amendment:

- Specifies that local regulation of transactions relating to movers of household goods or moving brokers is preempted to the state;
- Authorizes the department to implement a phased-in transition from annual registration to biennial registration for movers or moving brokers. The fee of \$300 per year would be assessed as \$600 every two years;
- Amends s. 507.04(4), F.S., pertaining to minimum valuation for release of liability, to clarify the prohibition against liability waivers and provide a limited exclusion for shipper-packed items; and
- Provides that late fees may be imposed for renewals filed after the expiration date of the registration.