

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 199 Household Moving Services
SPONSOR(S): Agriculture & Natural Resources Committee, Weinstein
TIED BILLS: IDEN./SIM. BILLS: SB 320

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Rows include Agriculture & Natural Resources Policy Committee, Military & Local Affairs Policy Committee, Natural Resources Appropriations Committee, General Government Policy Council.

SUMMARY ANALYSIS

Current Florida law does not preempt local ordinances or regulations that regulate movers of household goods or moving brokers. Consequently, if a mover's principal place of business is located in a county or municipality that requires a mover to be licensed or registered, he or she is required to obtain such registration in addition to registering with the state through the Florida Department of Agriculture and Consumer Services (DACS).

The bill preempts the regulation of movers of household goods and moving brokers to the state. The bill grandfathers local ordinances or regulations that were originally enacted before January 1, 2010, or subsequent amendments to such ordinances or regulations and requires related fees and taxes to be reasonable and not to exceed the cost of administering such regulations. The bill authorizes all aspects of grandfathered local ordinances to apply to a mover or moving broker when the principal place of business is located within that jurisdiction. The bill clarifies that the preemption does not apply to a local government's authority to levy a local business tax, pursuant to ch. 205, F.S.

Also, 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;
Changes the registration requirement for movers and moving brokers from an annual to a biennial registration and requires the annual registration fee to be calculated at the current rate of \$300 per year;
Allows a mover to refuse to transport certain items and exclude liability for certain household goods under specified situations;
Requires annual calculations of the registration fee; and
Authorizes the DACS to extend the expiration date of registration for a period of up to 12 months in order to establish staggered expiration dates.

The preemption of county and municipal ordinances or regulations that might include the levy of fees and taxes by local governments, and the limitations placed on fees and taxes associated with ordinances and regulations not preempted could result in an indeterminate loss of current as well as potential revenue to local governments. The DACS indicates the bill will not have a fiscal impact on the agency. Due to the preemption of local ordinances and regulation, the household moving industry may experience a decrease in costs by removing the potential for local government fees.

This bill may be a mandate requiring a two-thirds vote of the membership to be enacted.

This bill's effective date is July 1, 2010.

1 s. 507.13, F.S.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

An intrastate mover is defined as any person who engages in the transportation or shipment of household goods for compensation.<sup>2</sup> During the 2002 Regular Session, the Legislature enacted laws<sup>3</sup> 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 (DACS). 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.<sup>4</sup>

Chapter 507, F.S., provides for contract, delivery and storage requirements and provides specific prohibited acts that may result in administrative, civil or criminal penalties. Such violations may also be considered unfair or deceptive acts or practices or unfair methods of competition in violation of the Florida Deceptive and Unfair Trade Practices Act.<sup>5</sup>

If the DACS finds a mover in violation of any provisions of the law, rules or orders, the DACS is authorized 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; or
- Place the registrant on probation for a period of time, subject to such conditions as the department may specify.<sup>6</sup>

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<sup>2</sup> s. 507.01(9), F.S.

<sup>3</sup> Ch. 2002-53, Laws of Florida

<sup>4</sup> s. 507.04(2)(a)-(c), F.S.

<sup>5</sup> Ch. 501, Part II, F.S.

<sup>6</sup> s. 507.09(1)(a)-(e), F.S.

During the 2006 regular session, the Legislature amended Chapter 507, F.S., 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 DACS 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.
- 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 DACS 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.
- Provide that a county or municipality may not issue an occupational license unless the mover or broker has a current registration with the DACS.
- Amend the definition of “self-contained storage unit” in Chapter 83, F.S., as any unit not less than 200 cubic feet.

Current Florida law<sup>7</sup> does not preempt local ordinances or regulations that regulate transactions relating to movers of household goods or moving brokers. Any mover whose principal place of business is located in a county or municipality that requires local licensing or registration is required to obtain such registration in addition to registering with the state. In addition, Florida law allows for local taxes, fees, and bonding related to movers and moving brokers.

### **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 changes the registration requirement for movers and moving brokers from an annual to a biennial renewal and requires the registration fee for such businesses to continue to be calculated at an annual rate of \$300 per year. Also, based upon this change, and to stagger registration expiration dates, the bill authorizes the DACS to extend by one year, the expiration date of a registration.

The bill allows movers to exclude liability for household goods packed by the shipper if the exclusion is declared and the shipper declines, in writing, to allow the mover to open and inspect the box or crate in which the goods were packed by the shipper. Movers are also authorized to refuse to transport or ship any of the goods if the mover notifies the shipper and the shipper acknowledges the refusal in writing.

Finally, the bill preempts the regulation of movers of household goods and moving brokers to the state. Broward, Miami-Dade, Palm Beach, and Pinellas Counties currently have ordinances regulating household moving. The bill grandfathers local ordinances or regulations that were originally enacted before January 1, 2010, or subsequent amendments to such ordinances or regulations and requires related fees and taxes to be reasonable and not to exceed the cost of administering such regulations.

The bill authorizes all aspects of grandfathered local ordinances to apply to a mover or moving broker when the principal place of business is located within that jurisdiction. The bill clarifies that the

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<sup>7</sup> s. 507.13, F.S.

preemption does not apply to a local government's authority to levy a local business tax, pursuant to ch. 205, F.S.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 507.01, F.S.; changing the definition of the term "storage".

Section 2. Amends s. 507.03, F.S.; providing for biennial renewal of mover and moving broker registrations, authorizing the DACS to extend registration expiration dates one year, requiring the calculation of biennial registration fees based on an annual rate of \$300 per year, deleting the provision requiring certain movers and moving brokers to pay for local and state registration fees.

Section 3. Amends s. 507.04, F.S.; allowing a mover to exclude liability for certain goods packed by the shipper.

Section 4. Amends s. 507.06, F.S.; allowing a mover to refuse the transport or shipment of household goods under certain conditions.

Section 5. Amends s. 507.07, F.S.; conforming to the change from an annual to a biennial registration requirement.

Section 6. Amends s. 507.13, F.S.; preempting local moving ordinances and regulations except those originally adopted prior to January 1, 2010, providing for local regulation, exempting local business taxes.

Section 7. Provides an effective date of July 1, 2010.

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

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

1. Revenues:

See Fiscal Comments section.

2. Expenditures:

See Fiscal Comments section.

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

1. Revenues:

The bill grandfathers local ordinances and regulations of movers and moving brokers enacted before January 1, 2010, and limits fees and taxes to reasonable ones not exceeding the cost of administering the regulation or ordinance. This provision may reduce existing local revenues.

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:

The bill changes the registration requirement for movers and moving brokers from an annual to a biennial renewal but provides for the registration fee to be calculated at the current annual rate of \$300 per year. Changing the registration requirement from an annual to a biennial renewal requires movers and moving brokers to pay \$600 every other year.

The bill authorizes the DACS to stagger registration expiration dates to implement the biennial registration requirement. Staggering registration expiration dates should prevent the DACS from receiving an influx of registration renewals, allowing for more efficient processing of renewals.

According to the DACS, the preemption as framed in the bill does not expand the duties or responsibilities of the agency.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill deletes language in s. 507.13, F.S., stating that as authorized in s. 507.03(4), F.S., counties and municipalities may require, levy, or collect any registration fee or tax. It amends s. 507.03(4), F.S., to delete the following:

Any mover or moving broker whose principal place of business is located in a county or municipality that requires, by local ordinance, a local license or registration to engage in the business of moving and storage of household goods must obtain the license or registration from the county or municipality. A mover or broker that obtains a local license or registration must also pay the state registration fee under subsection (3).

The bill adds language to s. 507.07, F.S., stating:

“This chapter does not preempt ordinances or regulations enacted by a county before January 1, 2010, or subsequent amendments to such ordinances or regulations. However, fees required by such ordinances or regulations must be reasonable and may not exceed the cost of administering the ordinances or regulations.”

Due to these changes, the mandates provision may apply because the bill arguably reduces the authority of cities and counties to raise total aggregate revenue over February 1, 1989, levels. The amount of the reduction is indeterminate; therefore it is not known whether the bill is exempt due to having an insignificant fiscal impact.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

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.”<sup>8</sup>*

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

On February 3, 2010, the Agriculture and Natural Resources Policy Committee adopted one amendment to this bill. The amendment updates the grandfather date to January 1, 2010, and expands the limitations on grandfathered county ordinances or regulations to include all aspects of such ordinances.

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<sup>8</sup> 2008 Florida Movers and Warehousemen’s Association (FMWA) Fact Packet; The Facts: 2.