

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 765 Household Moving Services

SPONSOR(S): Agriculture & Natural Resources Appropriations Subcommittee; Goodson

TIED BILLS: None. **IDEN./SIM. BILLS:** CS/SB 798

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	12 Y, 0 N	Whittier	Luczynski
2) Agriculture & Natural Resources Appropriations Subcommittee	12 Y, 0 N, As CS	Lolley	Massengale
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Chapter 507, F.S., establishes laws pertaining to the loading, transportation or shipment, unloading, and affiliated storage of household goods as part of household moves, and addresses household moving practices in the state that are consistent with federal law governing consumer protection. The chapter applies to the operations of any mover or moving broker engaged in the *intrastate* transportation or shipment of household goods originating and terminating in the state and does not apply to shipments contracted by the U.S., the state, or any local government or political subdivision of the state.

The bill makes the following major changes to chapter 507, F.S.:

- Provides definitions for “additional services,” “impracticable operations,” and “personal laborer” and revises the definition of mover, clarifying that a mover required to register with the Department of Agricultural and Consumer Services (DACS) does not include a laborer hired only for the purposes of loading and unloading goods;
- Provides that DACS may immediately suspend a mover’s registration or eligibility for registration if a mover does not maintain motor vehicle insurance coverage;
- Provides that a mover must offer valuation coverage for cost of repair or replacement of goods and may not limit its liability for the loss or damage of household goods to a specified valuation rate;
- Requires a mover to conduct a physical survey of the household goods to be moved unless the survey is waived by the shipper;
- Requires a mover to provide a binding estimate to the shipper prior to executing a contract for service, which details the total charges for moving the household goods, unless waived by the shipper;
- Requires DACS to prepare a publication of rights, responsibilities, and remedies for movers and shippers under the chapter and requires that a mover provide a prospective shipper the published summary of rights and responsibilities and a binding estimate;
- Requires a mover to tender household goods for delivery on the agreed upon delivery date;
- Provides a maximum allowable charge for moving goods and time-frames in which payments should be submitted to the mover;
- Provides that a mover may collect partial payment if part of the shipment of household goods is lost or destroyed and outlines shipper’s rights in the instance of partial/total loss of household goods;
- Provides that DACS can immediately suspend a registration or the processing of an application for registration if the registrant or applicant is formally charged with certain crimes.

The bill has no fiscal impact on state and local governments and a fiscal impact on the private sector. See Fiscal Analysis & Economic Impact Statement for more details.

The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0765c.ANRAS

DATE: 4/10/2015

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 507, F.S., establishes laws pertaining to the loading, transportation or shipment, unloading, and affiliated storage of household goods as part of household moves, and addresses household moving practices in the state that are consistent with federal law governing consumer protection. The chapter applies to the operations of any mover or moving broker engaged in the *intrastate* transportation or shipment of household goods originating and terminating in the state and does not apply to shipments contracted by the U.S., the state, or any local government or political subdivision of the state. Legislative intent provides that “the chapter is intended to secure the satisfaction and confidence of shippers and members of the public when using a mover.”¹

Section 507.01, F.S., provides the following definitions:

- “Household goods” or “goods” means personal effects or other personal property commonly found in a home, personal residence, or other dwelling, including, but not limited to, household furniture. The term does not include freight or personal property moving to or from a factory, store, or other place of business.
- “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 that is owned or rented by the shipper or the shipper's agent; or
 - From a storehouse or warehouse that is owned or rented by the shipper or the shipper's agent to a dwelling.
- “Mover” means 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.
- “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.
- “Shipper” means a person who uses the services of a mover to transport or ship household goods as part of a household move.

A Certificate of Insurance must be provided by the mover showing proof of proper coverage. Insurance and surety must be issued by a company authorized to transact business in this state. The DACS shall be named as a certificate holder and must be notified at least 10 days before cancellation of insurance coverage.² A copy of the policy, declarations page or insurance card will not be accepted.

Coverage must include:

- Liability insurance coverage for the loss or damage of household goods – not less than \$10,000 per shipment.

¹ s. 507.02, F.S.

² s. 507.04, F.S.

- In lieu of maintaining the liability insurance, a mover operating two or fewer trucks is authorized, and a moving broker is required, to file with DACS, a performance bond or certificate of deposit in the amount of \$25,000.³
- Motor vehicle coverage, including bodily injury and property damage liability coverage in the following minimum amounts:
 - \$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.
 - \$300,000 per occurrence for a commercial motor vehicle with a gross weight of 44,000 pounds or more.⁴

A mover may offer valuation coverage to compensate a shipper if there is loss or damage of the shipper's household goods that occurs during a household move. A mover may not limit their liability for the loss or damage of household goods to a valuation rate that is less than 60 cents per pound per article. If a mover limits their liability to less than that rate, the provision of a contract for moving services is void. If a mover limits its liability for a shipper's goods, the mover must disclose the limitation, including the valuation rate, to the shipper in writing at the time that the estimate and contract for services are executed and before any moving or accessorial services are provided. The disclosure must also inform the shipper of the opportunity to purchase valuation coverage if the mover offers that coverage.⁵

Before providing any moving or accessorial services, a contract and estimate must be provided to a prospective shipper in writing, must be signed and dated by the shipper and the mover, and must include:

- The name, telephone number, and physical address where the mover's employees are available during normal business hours.
- The date the contract or estimate is prepared and any proposed date of the move.
- The name and address of the shipper, the addresses where the articles are to be picked up and delivered, and a telephone number where the shipper may be reached.
- The name, telephone number, and physical address of any location where the goods will be held pending further transportation, including situations where the mover retains possession of goods pending resolution of a fee dispute with the shipper.
- An itemized breakdown and description and total of all costs and services for loading, transportation or shipment, unloading, and accessorial services to be provided during a household move or storage of household goods.
- Acceptable forms of payment. A mover shall accept a minimum of two of the three following forms of payment:
 - Cash, cashier's check, money order, or traveler's check;
 - Valid personal check, showing upon its face the name and address of the shipper or authorized representative; or
 - Valid credit card, which shall include, but not be limited to, Visa or MasterCard.⁶

There is no requirement that a mover tender household goods for delivery on the agreed upon delivery date.

The department has no publication that includes a summary of the rights and responsibilities of and remedies available to movers and shippers.⁷ There is no provision in the statute for movers to collect a partial payment from a shipper if part of the shipment of household goods is lost or destroyed. Administrative remedies and penalties are: issuing notices of noncompliance; imposing an

³ s. 507.04(1), F.S.

⁴ s. 507.04(2), F.S.

⁵ s. 507.04(4) and (5), F.S.

⁶ s. 507.05, F.S.

⁷ *Id.*

administrative fine; directing person/business to cease and desist specified activities; refusing to register, revoke, or suspend a registration, or place a registrant on probation.

Effects of Proposed Changes

Legislative intent for the chapter is expanded to include the provision of “consistency and transparency in moving practices” in addition to securing the satisfaction and confidence of shippers and members of the public when using a mover.

The bill adds definitions for the following terms:

- "Additional services" means any additional transportation of household goods by a mover that is not included in a binding estimate or contract.
- "Impracticable operations" means conditions that make it impossible for a mover to perform pickup or delivery services for a household move with its road haulage equipment.
- "Personal laborer" means an individual hired by the shipper to assist in the loading and unloading of the shipper's household goods.

“Liability Insurance” is retitled “cargo liability insurance” throughout the section. Consequences for failing to maintain insurance coverage are moved from s. 507.04(1), F.S., to s. 507.04(3), F.S. This change does not remove the insurance requirement; it expands it by moving it to a section that refers to both cargo liability insurance and motor vehicle insurance requirements.

The bill requires the mover to offer valuation coverage for cost of repair or replacement of goods, unless waived or amended by the shipper.

The bill requires the mover to perform a physical survey to provide an accurate binding estimate. In other instances, a physical survey may be waived if the shipper elects to do so; however, this waiver must be documented in writing and retained by the mover. Before executing a contract for service, and at least 48 hours before the scheduled time and date of a shipment, a mover must provide a binding estimate of the total charges including, but not limited to, the loading, transportation or shipment, and unloading of household goods and accessorial services. The shipper may waive the binding estimate before the commencement of the 48-hour period before the household goods are loaded. The shipper may also waive the 48-hour period if the moving services request commencement within 48 hours.

The binding estimate must be signed upon completion, with both the mover and shipper maintaining a copy. Movers can amend the estimates preceding the scheduled loading of goods. Further provisions outline exclusions for binding estimates and addendums to the original contract.

The bill provides additional provisions to the contract for service that is provided to the shipper by the mover prior to providing any services. These include total charges based on the binding estimate and the terms and conditions of the contract, a caveat listing the maximum potential payment if the shipper and mover agree to pay upon delivery, and the recognition of addendums. A copy of the contract must accompany the household goods whenever they are in the mover's possession.

The bill requires DACS to prepare a summary of the rights and responsibilities of, and remedies, available to movers and shippers. The publication must include a form to be signed by the mover and the shipper acknowledging that both parties have read and understand the document. This acknowledgment form, along with the publication, must be attached as a part of the contract for service. The bill outlines the information that must be provided to the shipper by the mover prior to services being rendered.

The bill requires a mover to tender goods on the agreed delivery date or within the time frame specified. If a mover cannot deliver the household goods within the agreed upon time frame, the mover must make every effort to notify the shipper of the delay and provide an amended date of delivery. The

DACS notes that, “This will add consumer protection from loss or theft of goods and increase the ability to hold carriers responsible for damages, losses or failures—responsible carriers will be unaffected.”⁸

The bill provides that movers may only charge the amount of the binding estimate, plus any additional services requested or agreed to in writing. Any payment that is not collected upon delivery must be billed within 15-days of delivery. Movers may bill shippers for late fees should the shipper fail to make their payment within 30-days of delivery. The bill does not provide guidelines or limits on the late fees that can be charged by the mover.

Under the bill, movers can collect a partial payment from a shipper if part of the shipment of household goods is lost or destroyed. This could include:

- A prorated percentage of the binding estimate;
- Charges for additional services requested by the shipper after the contract was issued;
- Charges for impracticable operations (not to exceed 15% of all other charges due at delivery); and
- Any specific valuation rate charges due, if applicable.

It is the responsibility of the mover to determine what amount of the household goods were lost or destroyed during transit. If there was a total loss or destruction, the mover may not request freight charges from the shipper, but can collect a specific valuation rate charge due. If the total loss or destruction was the fault of the shipper, the total loss provisions are not applicable. Further language outlines shipper’s rights in regard to collection for losses.

Administrative penalties are revised to include that DACS shall immediately suspend a registration or the processing of an application for registration if the registrant or applicant is formally charged with certain crimes, including fraud, theft, larceny, embezzlement, or fraudulent conversion or misappropriation of property.

B. SECTION DIRECTORY:

Section 1. Amends s. 507.01, F.S., relating to definitions.

Section 2. Amends s. 507.02, F.S., relating to legislative intent.

Section 3. Amends s. 507.04, F.S., relating to required insurance coverages, liability limitations, and valuation coverage.

Section 4. Amends s. 507.05, F.S., relating to physical surveys, binding estimates, and contracts for service.

Section 5. Creates s. 507.054, F.S., relating to a publication of rights and responsibilities.

Section 6. Creates s. 507.055, F.S., relating to disclosures.

Section 7. Amends s. 507.06, F.S., relating to delivery and storage of household goods.

Section 8. Creates s. 507.065, F.S., relating to payment.

Section 9. Creates s. 507.066, F.S., relating to collection for losses.

Section 10. Amends s. 507.07, F.S., relating to violations.

Section 11. Amends s. 507.09, F.S., relating to administrative remedies and penalties.

Section 12. Amends s. 507.11, F.S., relating to criminal penalties.

Section 13. Creates s. 507.14, F.S., relating to rulemaking.

Section 14. Provides an effective date of July 1, 2015.

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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill changes valuation coverage from an optional offering to a required offering and requires the mover to offer coverage for cost of repair or replacement of goods, unless waived or amended by the shipper.

The bill specifies that movers may only charge the amount of the binding estimate, plus any additional services requested or agreed to in writing.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No new rule-making authority is created, but the authority for DACS to adopt rules to administer the chapter is moved from s. 507.09, F.S., to s. 507.14, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The language in lines 249-252, permitting the mover to perform and bill for additional services that the shipper has not agreed to pay for, may create a loophole for movers to add charges without the shipper's consent.

Lines 398-400 authorize a mover to bill a shipper for late fees should the shipper fail to make their payment within 30-days of delivery; however, the bill does not provide guidelines or limits on the late fees that can be charged by the mover.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 7, 2015, the Agriculture & Natural Resources Appropriations Subcommittee adopted a strike all amendment and reported the bill favorably as a committee substitute. The strike all amendment:

- Adds definitions.
- Requires a mover to offer valuation coverage for cost of repair or replacement of goods unless waived or amended by shipper.
- Removes the requirement that a mover must annually file a tariff with DACS.
- Specifies that a mover must conduct a physical survey, regardless of location.
- Specifies that a shipper may waive the binding estimate and/or the 48-hour period before scheduled shipment.
- Removes the one-time fee for providing a binding estimate.
- Removes a third degree felony for a mover that does not relinquish a shipper's household goods as ordered by law enforcement.

This analysis is drafted to the committee substitute as passed by the Agriculture & Natural Resources Appropriations Subcommittee.