

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 798

INTRODUCER: Commerce and Tourism Committee and Senator Lee

SUBJECT: Household Moving Services

DATE: April 15, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2. <u>Blizzard</u>	<u>DeLoach</u>	<u>AGG</u>	Recommend: Fav/CS
3. <u>Blizzard</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 798 broadens protections for consumers who use intrastate moving services (shippers) by:

- Providing for a required insurance protection option for shippers' moved goods;
- Requiring a binding estimate of the cost of services to be provided by the mover; and
- Clarifying what payment a mover can demand prior to returning the moved goods to the shipper.

The bill has an insignificant fiscal impact on state funds.

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

II. Present Situation:

Chapter 507, F.S., governs the loading, transportation, shipment, unloading, and affiliated storage of household goods as part of intrastate household moves. The chapter applies to any mover or moving broker engaged in intrastate transportation or shipment of household goods originating and terminating in the state.¹ These regulations co-exist with federal law, which governs interstate moving of household goods.

¹ Section 507.02, F.S.

Section 507.01(9), F.S., defines “mover” as a person who, for compensation, contracts for or engages in the loading, transportation, shipment, or unloading of household goods as part of a household move.² A “moving broker” arranges for another person to load, transport, ship, or unload household goods as part of a household move or refers a shipper to a mover by telephone, postal, or electronic mail, website, or other means.³

Section 507.03, F.S., requires any mover or moving broker who wishes to do business in Florida to register annually with the Department of Agriculture and Consumer Services (DACS). As of March 2015, 1,037 movers and 12 moving brokers were registered.⁴ In order to obtain a registration certificate, the mover or moving broker must file an application, pay a \$300 annual registration fee, and meet certain statutory qualifications, including proof of insurance coverage.⁵

Insurance Coverage and Liability Limitations

Section 507.04, F.S., requires movers and moving brokers to maintain liability and motor vehicle insurance. A mover who operates more than two vehicles is required to maintain liability insurance of at least \$10,000 per shipment, and not less than 60 cents per pound, per article.⁶ Movers who operate fewer than two vehicles are required only to carry either a performance bond or a \$25,000 certificate of deposit in lieu of liability insurance.⁷

Any contractual limitation to a mover’s liability for loss incurred to a shipper’s goods must be disclosed in writing to the shipper, along with the valuation rate, but a mover’s attempt to limit its liability beyond the minimum 60 cents per pound, per article rate is void under s. 507.04(4), F.S. The mover must inform the shipper of the opportunity to purchase valuation coverage, if the mover offers such additional insurance.⁸

Violations and Penalties

Section 507.05, F.S., requires an intrastate mover to provide an estimate and contract to the shipper before commencing the move. Should a dispute arise over payment or costs, s. 507.06, F.S., provides that the mover may place the shipper’s goods in a storage unit until payment is tendered. Because of ambiguity regarding what payment may legally be demanded, some shippers have been taken advantage of by deceptive or fraudulent moving practices.⁹ Often, moving fraud manifests as an increased fee assessed by the mover, who then refuses to relinquish the shipper’s goods until the inflated price has been paid in full.

² Section 507.01(9), F.S.

³ Section 507.01(10), F.S.

⁴ DACS, *SB 798 Agency Analysis* (February 24, 2015), on file with the Senate Commerce and Tourism Committee; Interview with DACS staff, March 17, 2015.

⁵ Section 507.03(1), F.S.

⁶ Section 507.04(4), F.S.

⁷ Section 507.04(1)(b), F.S.

⁸ Section 507.04(4), F.S.

⁹ According to the Federal Motor Carrier Safety Administration (FMCSA), Florida is a hot spot for moving fraud. See, e.g. Christina Hernandez, *3 South Florida Moving Companies Accused of Holding Customer Shipments Hostage* (November 26, 2013), available at <http://www.nbcmiami.com/news/local/3-South-Florida-Moving-Companies-Accused-of-Holding-Customer-Shipments-Hostage-233525971.html> (last accessed March 16, 2015).

While administrative, civil, and criminal penalties exist in ch. 507, F.S., for such fraudulent moving practices and other violations, the aggrieved shipper is not guaranteed the return of his or her goods until after such remedies have been finalized.

Local Ordinances and Regulations

Municipalities and counties may adopt local ordinances or regulations relating to the moving of household goods in addition to the state regulations required by statute.¹⁰ Broward, Miami-Dade, Palm Beach, Hillsborough, and Pinellas counties currently have such ordinances. Movers or moving brokers whose principal place of business is located in a county or municipality with such an ordinance are required to register under local and state laws. State law also allows for local taxes, fees, and bonding related to movers and moving brokers, so long as any local registration fees are reasonable and do not exceed the cost of administering the ordinance or regulation.¹¹

III. Effect of Proposed Changes:

Definitions and Legislative Intent

Section 1 defines terms used in the bill, deletes the definition of “estimate” (but provides for a binding estimate in later sections).

Section 2 provides that the bill is intended to provide consistency and transparency in moving practices.

Insurance Requirement

Section 3 clarifies that movers must maintain current and valid *cargo* liability insurance coverage. The bill also removes the 60 cents per pound, per article minimum liability insurance requirement for the loss or damage of household goods, but adds a requirement that a mover offer valuation coverage¹² equal to at least the cost of replacement of the shipper’s goods, minus depreciation value. Valuation coverage can be more valuable to shippers than liability insurance in instances of loss of relatively light items, e.g., electronics, are lost or damaged during the move because they will be insured based on value rather than weight.

Before the Move

Section 6 requires a mover to provide a prospective shipper with an informational publication (see section 5) and a binding estimate (see section 4) prior to entering into any contract for moving services.

¹⁰ Section 507.09, F.S.

¹¹ Section 507.09, F.S.

¹² Valuation coverage will only cover loss caused by the mover’s fault, whereas moving coverage, available through an insurance agent, will cover loss caused by “acts of God.”

<https://www.protectyourmove.gov/consumer/awareness/valuation/valuation-insurance.htm>.

Section 5 creates s. 507.054, F.S., which mandates the DACS prepare a publication entitled “Your Rights and Responsibilities When You Move. Furnished by Your Mover, as Required by Florida Law.” This booklet, distributed by movers, must:

- Describe the shipper’s and mover’s rights and responsibilities, as well as available remedies;
- Bear an attestation signed by both parties signifying that they have read and understand the document as well as the criminal and administrative penalties for specific violations;
- Include a warning of the risks of shipping sentimental or family heirlooms;
- Be attached to the general contract for moving services as an integral part thereof; and
- Measure at least 36 square inches.

The shipper must acknowledge receipt of this publication by signed acknowledgement in the contract.

The binding estimate, described in **section 4** of the bill, must be based on the mover’s physical survey of the household goods to be moved. In addition, it must:

- Be provided to the shipper before the execution of a contract for services, and at least 48 hours before the move;
- Include at least an itemized total cost for the loading, transport or shipment, and unloading of household goods and accessorial services;
- Provide a table of measures used by the mover in preparing the estimate;
- Evince the date the estimate was prepared and the proposed date of the move;
- State that the estimate is binding on the mover and shipper;
- Identify accepted forms of payment; and
- Bear the signature of both parties.

A physical survey may only be waived if the goods are outside a 50-mile radius from the mover or if the shipper waives the right by signed writing. A binding estimate must be provided in every move performed by a mover, but the 48-hour period between provision of the binding estimate, and the move may be waived by a shipper’s signed acknowledgement in the contract.

The binding estimate may not be amended by the mover within 48 hours of the move unless the shipper requests additional services or unless both parties agree to amend the estimate.

A mover and shipper must enter into a contract for services prior to the performance of any services. In accordance with **section 4** of the bill, the contract must include:

- Contact information of both parties;
- Date contract was prepared and date of the move;
- Where the goods will be stored, including in the case of a contract dispute;
- A copy of the binding estimate;
- Total cost to shipper that may be collected by the mover at delivery, and terms of the payment; and
- Acceptable forms of payment.

The mover must retain a copy of the binding estimate and the contract for one year after their preparation dates and keep a copy with him or her during the entire move, should a dispute over cost or payment arise.

Payment and Delivery of Goods

Sections 7 and 8 provide for notice requirements if the mover is unable to perform the requested services on the date reflected in the contract. Additionally, the bill requires a mover to relinquish a shipper's goods inside the location directed by the shipper in a timely manner, if the shipper has paid the exact amount of the binding estimate; paid any additional charges properly agreed to by both parties in writing, if applicable; and paid any charges related to impracticable operations, if applicable.

Section 8 provides that a mover may require payment in excess of the binding estimate prior to his or her relinquishment of the household goods, if:

- Prior to beginning the move, the parties negotiate a revised binding estimate to reflect extra services requested by the shipper.
- The shipper, after at least a one-hour cool off period, consents by written contract addendum to the mover's performance of (and charging for) additional services that the mover has advised are essential to the move.
- After execution of the contract, the shipper requests additional services and the mover informs the shipper of associated charges in writing.
- Impracticable operations require additional services to be performed by the mover.

The mover cannot demand payment of any additional charges assessed under ch. 507, F.S., prior to relinquishing the shipper's household goods, but may collect payment by billing the shipper within 15 days after delivery of the goods. Payment for legitimate charges must be paid by the shipper within 30 days after receipt of the bill.

Section 9 of the bill dictates that, should any partial loss or destruction of the household goods occur during shipment, the mover may collect the following payment at delivery of the household goods:

- A prorated payment based on the weight of the portion of the goods delivered versus those that were ordered to be moved;¹³
- Charges for additional services specifically requested by the shipper after execution of the contract;
- Charges for impracticable operations, which may not exceed 15 percent of all other charges due at delivery; and
- Charges for any valuation insurance purchased by the shipper.

The mover may not bill for any charges beyond those specified above if the partial loss of the shipper's goods resulted from an act or omission of the shipper.

If a total loss of the household goods occurs during the move, a mover may not collect any freight charges, including accessorial charges, but may collect valuation insurance charges.

¹³ A mover is responsible for determining the weight of the goods lost at his or her own expense under this bill.

Violations and Penalties

Section 10 prohibits increasing the contracted cost of the move, if not in accordance with ch. 507, F.S., improperly withholding a shipper's goods, and otherwise failing to comply with chapter 507.

Section 11 creates administrative penalties for violations of ch. 507, F.S., including the suspension of a mover's license if the company's officer or director is charged with a crime involving fraud, theft, larceny, embezzlement, or fraudulent conversion or misappropriation of property, or a crime arising from conduct during movement of household goods.

Section 12 creates criminal penalties for violations of ch. 507, F.S., including penalizing as a third degree felony any mover's refusal to relinquish a shipper's goods after a law enforcement officer determines that payment has been made in accordance with this chapter.

Rulemaking Authority

Section 13 grants the DACS rulemaking authority to administer this bill.

Effective Date

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The public may see a faster resolution to moving disputes that arise due to the provisions in CS/SB 798.

C. Government Sector Impact:

The bill requires the DACS to prepare a publication that includes a summary of the rights and responsibilities of, and remedies available to, movers and shippers. The DACS indicates the cost of this publication can be absorbed within existing resources.

The Criminal Justice Impact Conference (CJIC) considered SB 798, which had the same criminal penalties as CS/SB 798, and determined that SB 798 would have a positive insignificant impact (less than 10 per year) on prison beds.¹⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 507.01, 507.02, 507.04, 507.05, 507.06, 507.07, 507.09, and 507.11.

This bill creates the following sections of the Florida Statutes: 507.054, 507.055, 507.065, 507.066, and 507.14.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on March 23, 2015:

The committee substitute maintains the requirement that moving brokers provide proof of insurance to the DACS;

- Removes requirement that movers publish a tariff;
- Allows shippers to waive the 48-hour waiting period between provision of a binding estimate and the move; and
- Clarifies what costs may be collected by the mover upon delivery of the moved household goods.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁴ Florida Criminal Justice Impact Conference, *March 11, 2015 Results*, (March 11, 2015), available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/index.cfm> (last accessed March 19, 2015).