

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 265 Household Moving Services
SPONSOR(S): Business & Professions Subcommittee; Goodson
TIED BILLS: **IDEN./SIM. BILLS:** SB 302

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	13 Y, 0 N, As CS	Anstead	Anstead
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Chapter 507, F.S., requires any person engaged in intrastate household moving services to register with the Florida Department of Agriculture and Consumer Services (DACS). Household moving services include the loading, unloading, transportation or shipment, and affiliated storage of household goods.

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

- Provides definitions for “additional services,” “binding estimate,” “impracticable operations,” and “personal laborer,” and revises the definition of “mover,” clarifying that a mover does not include a personal laborer;
- Provides additional crimes that may be used by DACS to deny, refuse to renew, or revoke the registration of a mover convicted of such crimes;
- Provides that a mover must offer indemnification for the full replacement value of household goods;
- Requires a mover to conduct a physical survey of the household goods and provide a binding estimate to a prospective shipper 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 a mover to provide a prospective shipper with a copy of the publication with the binding estimate;
- Requires a mover to relinquish household goods on the agreed upon delivery date;
- 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; and
- Provides rule-making authority to DACS.

The bill has no fiscal impact on state and local governments. The bill may have a fiscal impact on the private sector based on the requirement that movers only charge the amount indicated in the binding estimate.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 507, F.S., requires any person engaged in intrastate household moving services to register with the Florida Department of Agriculture and Consumer Services (DACs). The chapter establishes laws pertaining to the loading, unloading, transportation or shipment, and affiliated storage of household goods by movers and applies to the operations of any mover or moving broker engaged in the intrastate transportation or shipment of household goods but 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

Definitions

“Household goods” or “goods” mean personal effects or other personal property commonly found in a home, 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, engages in the loading, unloading, transportation or shipment 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, unload, transport or ship household goods as part of a household move or who, for compensation, refers a shipper to a mover.

“Shipper” means a person who uses the services of a mover to transport or ship household goods as part of a household move.

Registration

Section 507.03, F.S., requires movers and moving brokers engaged in intrastate moving to register with DACs. The registration and renewal fee is \$600 per two-year registration period.² There are approximately 1,018 movers and 13 moving brokers in the state.³

¹ s. 507.02, F.S.

² s. 507.03, F.S.

³ Email from Jonathan Rees, Deputy Director of Legislative Affairs, Department of Agriculture and Consumer Services, Fwd: Household Moving Services (Oct. 19, 2015).

DACS may deny, refuse to renew, or revoke the registration of any mover or moving broker based upon a mover, or an officer or director of a mover, being convicted of, or having a charge pending for, a crime involving fraud, dishonest dealing, or any other act of moral turpitude.

Liability Insurance

A certificate of liability insurance coverage must be provided by the mover showing proof of proper coverage, issued by a company authorized to transact business in this state. DACS shall be named as a certificate holder and must be notified at least 10 days before cancellation of insurance coverage.⁴

The insurance coverage must at a minimum include:

- Liability insurance coverage for the loss or damage of household goods as a result of the negligence of the mover in an amount of not less than \$10,000 per shipment.
 - In lieu of the required liability insurance coverage, a mover operating two or fewer trucks is authorized, and a moving broker is required, to file a performance bond or certificate of deposit in the amount of \$25,000 with DACS designating DACS as the sole beneficiary.⁵
- 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; and
 - \$300,000 per occurrence for a commercial motor vehicle with a gross weight of 44,000 pounds or more.⁶

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 attempts to limit their liability to a greater extent, such provision 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.⁷

Estimates and Contracts Requirements

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

- 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.

⁴ s. 507.04, F.S.

⁵ s. 507.04(1), F.S.

⁶ s. 507.04(2), F.S.

⁷ s. 507.04(4) and (5), F.S.

- 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; a valid personal check, showing upon its face the name and address of the shipper or authorized representative; or a valid credit card, which shall include, but not be limited to, Visa or MasterCard.⁸

Administrative Remedies

DACS may pursue registered movers for violations of the chapter by issuing notices of noncompliance; imposing an administrative fine; directing a mover or related person or business to cease and desist specified activities; revoking or suspending a registration; placing a registrant on probation; or refusing to register an applicant.

Effects of Proposed Changes

The bill amends s. 507.02, F.S., to expand the legislative intent for the chapter to provide for "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.

Definitions

"Additional services" means any additional transportation of household goods that is performed by a mover not specifically included in a binding estimate or contract resulting in a charge to the shipper.

"Binding estimate" means a written total cost of a move including the loading, unloading and transportation of household goods and any accessorial services⁹ for which the shipper must pay the mover.

"Impracticable operations" means operations of the mover which are necessary to complete the move due to substantial and unforeseen conditions arising after execution of a contract for household services. Such conditions must make it impractical for a mover to perform pickup or delivery services for a household move as originally provided in the contract for service.

"Personal laborer" means an individual hired directly by the shipper to assist in the loading or unloading of the shipper's own household goods. The term does not include any individual who has contracted with or is compensated by a third party or whose services are brokered as part of a household move.

The definition of "mover" is clarified to reflect that a personal laborer is not a mover.

Registration

The bill amends s. 507.03, F.S., to include theft, larceny, embezzlement, fraudulent conversion or misappropriation of property to the list of crimes that may be used by DACS to deny, refuse to renew, or revoke a movers' registration.

Liability Insurance

"Liability Insurance" is retitled "cargo liability insurance." 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.

Indemnification

⁸ s. 507.05, F.S.

⁹ "Accessorial services" means any service performed by a mover which results in a charge to the shipper and is incidental to the transportation or shipment of household goods," s. 507.01(1), F.S. (2015).

The bill amends s. 507.04 (4), F.S., renaming “Liability limitations; valuation rates” to “Indemnification.” Provisions related to prohibiting the limitation of liability based on valuation rates less than 60 cents per pound are removed and replaced with a requirement that movers indemnify shippers for the full replacement value of household goods that are lost or damaged by the mover during a household move. The shipper may waive the indemnification, if the waiver is in writing and signed by the shipper. The mover must disclose the terms of this indemnification, including any deductibles, to the shipper in writing within the binding estimate, “again when the contract for services is executed” and before any moving services are provided.

Estimates and Contract Requirements

The bill amends s. 507.05, F.S., to require the mover to perform a physical survey of the goods to be moved and to provide an accurate binding estimate of the moving cost to the shipper. A physical survey may be waived by the shipper; however, the waiver must be in writing, signed by the shipper, and retained by the mover as an addendum to the contract.

Prior to providing any household move or accessorial services, a mover must provide a written contract for service to the shipper, which the shipper must sign and date. The contract must include the total charges owed by the shipper based on the binding estimate and the terms and conditions for their payment.

Before executing a contract for service, and at least 48 hours before the scheduled time and date of a household move, 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 which must be signed by the shipper and mover.

The shipper may waive the binding estimate if done at least 48 hours before the household goods are loaded and only if such waiver is in writing and signed by the shipper. The waiver of the binding estimate is required to have specific language, provided by DACS, that indicates the specific rights the shipper may be losing by waiving the binding estimate. The shipper may also waive the 48-hour period if the move begins within 48 hours after the shipper's initial contact with the mover.

Movers can amend the binding estimates preceding the scheduled loading of goods if the shipper has requested that additional household goods be moved or additional services not included in the binding estimate “or upon mutual agreement of the mover and the shipper.” If a mover begins loading without executing a new binding estimate or an addendum, the mover reaffirms the original binding estimate.

However, an addendum to the binding estimate may be made in writing for additional household goods or additional services that are not specifically included in the binding estimate, if the mover allows the shipper at least one hour to determine whether to execute the addendum. If the shipper refuses to execute the addendum, the mover may refuse to ship the additional goods or perform the additional services requested.

If impracticable operations occur due to substantial and unforeseen conditions that arise after the execution of the contract for household services, the mover must advise the shipper in advance of performance and allow the shipper at least one hour to determine whether to authorize the impracticable operations necessary. If the shipper agrees to the additional fees in the addendum, the mover must execute a written addendum to the contract that is signed by the shipper and the impracticable operations fees must be billed within 15 days after the date of delivery. If the shipper does not agree, the mover may perform and then bill for the impracticable operations. It is the mover's burden to show that the impracticable operations were necessary to properly perform the move.

All binding estimates and addendums to the binding estimate shall be retained by the mover for one year as an attachment to the contract for service.

Consumer Information

The bill creates s. 507.054, F.S., requiring DACS to prepare a publication that includes a summary of rights, responsibilities, and remedies available to movers and shippers, which must state that the mover's failure to relinquish household goods constitutes a third degree felony, and that violation of ch. 507, F.S., in certain circumstances constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act. The publication must also include a notice to the shipper about the potential risks of shipping sentimental or family heirloom items.

Prior to executing the contract, the mover must provide the shipper with the publication and a “concise, easy-to-read, and accurate binding estimate.” The shipper is required to acknowledge, in writing or electronically, receipt of the publication.

The bill amends s. 507.06, F.S., requiring a mover to relinquish goods on the agreed delivery date or within the time frame specified in the contract, unless the shipper has not tendered payment or the requirement is waived by the shipper.

If a mover cannot deliver the household goods within the agreed upon time frame, the mover must notify the shipper of the delay and provide an amended date or timeframe of pickup or delivery of goods “in a timely manner.”

The bill provides that movers may only charge the amount of the binding estimate, unless waived by the shipper, plus charges for any additional services requested or agreed to in writing by the shipper after the contract was issued and for impracticable operations, if applicable.

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.

Administrative Remedies

The administrative remedies section is amended to require DACS to 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. 507.03, F.S., relating to the conditions under which DACS may deny, refuse to renew, or revoke the registration of a mover or moving broker.
- Section 4.** Amends s. 507.04, F.S., relating to required insurance coverages, indemnification, liability limitations, and valuation coverage.
- Section 5.** Amends s. 507.05, F.S., relating to physical surveys, binding estimates, and contracts for service.
- Section 6.** Creates s. 507.054, F.S., relating to a publication of rights and responsibilities.
- Section 7.** Creates s. 507.055, F.S., relating to disclosures.
- Section 8.** Amends s. 507.06. F.S., relating to delivery and storage of household goods.
- Section 9.** Creates s. 507.065, F.S., relating to payment.
- 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. 507.10, F.S., relating to civil penalties and remedies.

Section 13. Amends s. 507.11, F.S., relating to criminal penalties.

Section 14. Creates s. 507.14, F.S., relating to rulemaking.

Section 15. Provides an effective date of July 1, 2016.

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 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:

None.

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:

DACS is directed to adopt rules to administer changes to the chapter.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 369-377 require that a statement, with specific font type, be placed on any waiver of the binding estimate, and require that DACS create such language, but does not clearly identify what should be in the language of the statement.

Lines 593-595 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 October 21, 2015, the Business & Professions Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. The amendments:

- Clarify language related to the denial of an application for licensure by deleting the phrase “a crime arising from conduct during a household move;”
- Conform the use of the phrase “additional services” with other language used throughout the subsection and the definition of the phrase; and
- Conform the use of the phrase “impracticable operations” with other language used throughout the subsection and the definition of the phrase.

The staff analysis is drafted to reflect the committee substitute.