

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Banking and Insurance Committee

BILL: CS/SB 244

SPONSOR: Banking and Insurance Committee and Senators Lynn and Aronberg

SUBJECT: Moving and Storage Services

DATE: February 8, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Earlywine	Cooper	CM	<b>Favorable</b>
2.	Woods	Meyer	TR	<b>Fav/1 amendment</b>
3.	Knudson	Deffenbaugh	BI	<b>Fav/CS</b>
4.			CA	
5.				
6.				

## I. Summary:

This bill revises the definitions of a “self-contained storage unit” and “moving container” to expand the definition to include units down to 200 cubic feet in size. This extends the application of the current Florida law that grants the owner of a self-contained storage unit lien rights against the property contained within the unit. Expansion of the definition of “moving container” ensures that such smaller moving containers are contained within the definition of a move for purposes of chapter 507, F.S.

This bill changes the title of the “Intrastate Moving Law” to “Household Moving Services” and expands its regulation of household moving services to include moving brokers. “Moving brokers” are to be regulated by Department of Agriculture and Consumer Services (DACS) in the same way moving services are currently regulated. Moving brokers must register with DACS, post specific financial security, and pay a fee. Moving brokers must maintain a \$25,000 performance bond or certificate of deposit.

The bill permits movers with two or fewer vehicles to use a performance bond or certificate of deposit in the amount of \$25,000 instead of liability insurance.

This bill also requires each mover’s vehicle to display signage with a minimum letter height of 1.5 inches, and provides a county or municipality may not issue an occupational license unless the mover or broker has a current registration with the Department of Agriculture and Consumer Services (DACS).

This bill substantially amends ss. 83.803, 507.01, 507.02, 507.03, 507.04, 507.05, 507.06, 507.07, 507.08, 507.09, 507.10, 507.11, 507.12 and 507.13 of the Florida Statutes. The bill also creates s. 205.1975 of the Florida Statutes.

## II. Present Situation:

### Self Storage Units

Self-storage facilities allow storage space to be rented where goods and belongings can be kept for storing. Currently, a self-contained storage unit is defined as any unit 600 cubic feet in size or greater, including, but not limited to, a trailer, box, or other shipping container, which is leased by a tenant mainly for storage space.<sup>1</sup> The unit may be located at a facility, owned or operated by the owner or at a location designated by the tenant.<sup>2</sup>

Florida law grants the owner of a self-contained storage unit certain rights against the property contained within the storage unit. The owner of a self-contained storage unit has a lien on all personal property, whether or not owned by the tenant, located at a self-contained storage unit for rent, labor charges, or other charges.<sup>3</sup> If the tenant fails to pay rent, the owner may, without notice, after 5 days from the due date of the rent, deny the tenant access to personal property located in the self-contained storage unit.<sup>4</sup>

### Moving Services

In 2002 the Legislature enacted ch. 507, F.S., to regulate the intrastate moving industry in Florida.<sup>5</sup> A mover is defined as any person who engages in the transportation or shipment of household goods for compensation.<sup>6</sup> Any mover wishing to do business in Florida must register annually with the Department of Agriculture and Consumer Services<sup>7</sup> To obtain a registration certificate, the mover must file an application, pay a registration fee in the amount of \$300,<sup>8</sup> and meet statutory qualifications including proof of insurance coverage.<sup>9</sup>

The law requires a mover to maintain cargo liability insurance coverage in the amount of at least \$10,000 per shipment<sup>10</sup> and limits the mover's liability to not less than 60 cents per pound of cargo.<sup>11</sup> The chapter also contains motor vehicle insurance coverage requirements for each mover. The mover must maintain combined 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 between 35,000 and 43,999 pounds;
- \$300,000 per occurrence for a commercial motor vehicle with a gross weight of 44,000 pounds or more.<sup>12</sup>

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<sup>1</sup> Section 83.803(2), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 83.805, F.S.

<sup>4</sup> Section 83.8055, F.S.

<sup>5</sup> Chapter 2002-53, L.O.F.

<sup>6</sup> Section 507.01(8), F.S.

<sup>7</sup> Section 507.03(1), F.S.

<sup>8</sup> Section 507.03(3), F.S.

<sup>9</sup> Section 507.03(9), F.S.

<sup>10</sup> Section 507.04(1)(a), F.S.

<sup>11</sup> Section 507.04(1)(c), F.S.

<sup>12</sup> Section 507.04(1)(b)1.-3., F.S.

If DACS finds a mover has violated any of the provisions of the law, rules, or orders, then DACS may enter an order doing 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, or revoke or suspend a registration.
- Place the registrant on probation for a period of time, subject to such conditions as DACS may specify.<sup>13</sup>

Moving brokers arrange for loading, transporting, and shipping household goods or refers a shipper to a mover for compensation. Moving brokers are not currently regulated under Florida law as a moving service.

### **Surety Bonds**

A surety bond is a contractual arrangement between the surety (insurer selling the bond), the principal (here, the mover), and the obligee (here, the customer of the insurer) whereby the surety agrees to protect the obligee if the principal defaults in performing the principal's contractual obligations.<sup>14</sup> The bond serves to create joint and several liability between the principal and the surety, allowing the obligee to collect from either party. Surety bonds are sold by licensed property and casualty insurers in Florida. A major difference between a surety bond and a standard property and casualty insurance policy is the surety bond does not protect the principal against a judgment. Thus, in the case of a mover, the surety (insurer) would have the right to recover from the principal (mover), the full amount of any damages paid out by the surety pursuant to a judgment.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 83.803, F.S., to expand the definition of a “self-contained storage unit” to include units down to 200 cubic feet in size. This would bring the owners of the smaller modules within the protection of the Florida Self-Storage Act.

**Section 2** requests the Division of Statutory Revision to rename the title of ch. 507, F.S., to “Household Moving Services.”

**Section 3** amends s. 507.01, F.S., to expand and clarify certain existing definitions. This section also adds definitions for the terms “household move,” “moving broker,” and “moving container,” as follows:

- “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

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<sup>13</sup> Section 507.09(1)(a)-(e), F.S.

<sup>14</sup> Blacks Law Dictionary, pg. 181 (Deluxe 6<sup>th</sup> ed. 1990).

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 owned or rented by the shipper or the shipper's agent; or
  - From a storehouse or warehouse owned or rented by the shipper or the shipper's agent to a dwelling.
- "Moving broker" or "broker" means a person who, for compensation, arranges for another person to load, transport or ship, or unloads 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.
  - "Moving container" means a receptacle holding at least 200 cubic feet of volume which is used to transport or ship household goods as part of a household move.

Several definitions are amended by this section. The term "mover" is redefined to mean 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. The definition of "estimate" is clarified to state that an estimate must include charges for loading and unloading household goods in conjunction with the shipment. "Household goods" or "goods" is redefined to not include items held in a storage facility, storehouse or warehouse facility. Other terms are given technical and clarifying changes in this section.

**Section 4** amends s. 507.02, F.S., to clarify the construction, application and intent of the licensing requirements and includes references to a "moving broker," consistent with the regulation required under this bill.

**Section 5** amends s. 507.03, F.S., to provide for the regulation of "moving brokers" by DACS, in the same way moving services are currently regulated. Moving brokers must register with DACS, post specific financial security, and pay a fee. This section requires brokers to obtain a local registration or license if required by local ordinance. This section requires a moving broker to indicate in advertising the business is registered in Florida and provide the registration number. A mover's vehicles must display certain signage. This section also provides for denial, refusal to renew, or revocation of registration of mover or moving broker. Further, this section requires moving brokers to provide evidence of compliance with the alternative coverage provisions of s. 507.04(1)(b), F.S., which requires the maintenance of a \$25,000 performance bond or certificate of deposit.

**Section 6** amends s. 507.04, F.S., to require a mover to submit evidence of liability insurance of at least \$10,000 per shipment before registration with DACS and authorizes DACS to suspend a mover's registration and seek an injunction in circuit court if the mover fails to maintain insurance coverage. This section also provides for a penalty not to exceed \$5,000 and court costs.

This section also permits movers with two or fewer vehicles to use a performance bond or certificate of deposit in the amount of \$25,000 instead of liability insurance. This section provides the bond or certificate of deposit must:

- be filed with DACS;
- name DACS as the beneficiary; and
- be used exclusively for the payment of claims to consumers who are injured by the fraud, misrepresentation, breach of contract, misfeasance, malfeasance, or financial failure of the mover or moving broker, or by the violation of any provision of this chapter by the mover or moving broker.

Any liability may be enforced either by an administrative action or by filing an action in a court of competent jurisdiction. However, this bill limits the use of the bond or certificate of deposit to payment of claims adjudicated by DACS. Also, the aggregate payout may not exceed the amount of the bond or certificate of deposit.

This section also permits a mover to offer valuation coverage to compensate a shipper for loss or damage to goods during a move. The mover must disclose the cost and rate of the coverage in writing at the time of the estimate and contract for services is executed, and coverage must be for at least the 60 cent per pound minimum valuation limit.

**Section 7** amends s. 507.05, F.S., to make non-substantive technical and clarifying revisions to requirements for content of contracts.

**Section 8** amends s. 507.06, F.S., to revise provisions for the delivery and storage of household goods. Specifically, a mover must relinquish household goods to a shipper and must place the goods inside a shipper's dwelling, or if directed by the shipper, inside a storehouse or warehouse owned or rented by the shipper or the shipper's agent, unless the shipper has not tendered payment in the amount specified in a written contract or estimate signed and dated by the shipper. In addition, a mover may not refuse to relinquish household goods to a shipper or fail to place the goods inside a shipper's dwelling or, if directed by the shipper, inside a storehouse or warehouse owned or rented by the shippers or the shipper's agent, based on the mover's refusal to accept an acceptable form of payment.

**Section 9** amends s. 507.07, F.S., to provide that it is a violation of ch. 507, F.S., for a moving broker to advertise or conduct business of moving or offering to move without registering with DACS.

**Section 10** amends s. 507.08, F.S., to make non-substantive technical and clarifying revisions to provisions relating to deceptive and unfair trade practice. This section also includes references to a "moving broker," consistent with the regulation required under this bill.

**Section 11** amends s. 507.09, F.S., to apply provisions relating to administrative remedies and penalties to "moving brokers," consistent with the regulation required under this bill.

**Section 12** amends s. 507.10, F.S., to apply provisions relating to civil penalties and remedies to "moving brokers," consistent with the regulation required under this bill.

**Section 13** amends s. 507.11, F.S., to make non-substantive revisions to language regarding penalties.

**Section 14** amends s. 507.12, F.S., to make non-substantive revisions to language regarding deposit of payments into the General Inspection Trust Fund.

**Section 15** amends s. 507.13, F.S., to apply provisions regarding local regulation to “moving brokers,” consistent with the regulation required under this bill.

**Section 16** creates s. 205.1975, F.S., to prohibit a county or municipality from issuing or renewing an occupational license to a mover or moving broker unless registered with DACS.

**Section 17** provides an effective date of July 1, 2006.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

This bill requires moving brokers to annually register with DACS, submit a form of security deposit in the amount of \$25,000, and pay a \$300 registration fee.

B. Private Sector Impact:

This bill requires moving brokers to annually register with DACS, submit a form of security deposit in the amount of \$25,000, and pay a \$300 registration fee. The Legislation should provide protection to consumers by requiring that moving brokers be registered with the DACS. Supporters of the legislation assert that some moving brokers engage in fraudulent practices such as quoting artificially low prices to consumers searching for a mover in order to receive their business. Then, when the actual mover arrives, the consumer is presented with a price quote which largely exceeds what the broker has quoted, putting the consumer in a difficult condition. The licensure requirement will allow the DACS in some circumstances to administer penalties against brokers who deal dishonestly with consumers, and the required security deposit would provide potential redress for consumers who suffer economic loss from a broker that acts unscrupulously.

**C. Government Sector Impact:**

There may be indeterminate costs incurred by DACS related to the increase in responsibilities for regulation of moving brokers. However, DACS believes the increase in registrants can be handled by current staff.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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