

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: Department of Transportation

BILL: SB 244

INTRODUCER: Senators Lynn and Aronberg

SUBJECT: Moving and Storage Services

DATE: January 6, 2006

REVISED: 1/10/06

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

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill revises the definition of a “self-contained storage unit” to expand the definition to include units down to 200 cubic feet in size.

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. 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.¹ The unit may be located at a facility owned or operated by the owner or at a location designated by the tenant.²

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.³ 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.⁴

Moving Services

In 2002 the Legislature enacted ch. 507, F.S., to regulate the intrastate moving industry in Florida.⁵ A mover is defined as any person who engages in the transportation or shipment of household goods for compensation.⁶ Any mover wishing to do business in Florida must register annually with DACS⁷ To obtain a registration certificate, the mover must file an application, pay a registration fee in the amount of \$300,⁸ and meet statutory qualifications including proof of insurance coverage.⁹

The law requires a mover to maintain cargo liability insurance coverage in the amount of at least \$10,000 per shipment¹⁰ and limits the mover's liability to not less than 60 cents per pound of cargo.¹¹ A mover must also maintain minimum limits of motor vehicle coverage in the amounts of: \$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.¹²

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.

¹ Section 83.803(2), F.S.

² *Id.*

³ Section 83.805, F.S.

⁴ Section 83.8055, F.S.

⁵ Chapter 2002-53, L.O.F.

⁶ Section 507.01(8), F.S.

⁷ Section 507.03(1), F.S.

⁸ Section 507.03(3), F.S.

⁹ Section 507.03(9), F.S.

¹⁰ Section 507.04(1)(a), F.S.

¹¹ Section 507.04(1)(c), F.S.

¹² Section 507.04(1)(b)1.-3., F.S.

- Place the registrant on probation for a period of time, subject to such conditions as DACS may specify.¹³

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.¹⁴ 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 smaller modules within the protection of the Florida Self-Storage Act.

Section 2 request that 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 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.

¹³ Section 507.09(1)(a)-(e), F.S.

¹⁴ Blacks Law Dictionary, pg. 181 (Deluxe 6th ed. 1990).

- “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.
- “Moving container” means a receptacle holding at least 225 cubic feet of volume which is used to transport or ship household goods as part of a household move.

In addition, “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.

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 certain insurance coverage or other permitted alternative coverage.

Section 6 amends s. 507.04, F.S., to require a mover to submit evidence of liability insurance 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 certification 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 permits a mover to offer valuation coverage to compensate a shipper for loss or damage to goods during a move. However, 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.

Section 7 amends s. 507.05, F.S., to make non-substantive 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 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 revision 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.

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.

VIII. Summary of Amendments:

Barcode 835486 by Transportation:

Redefines “moving container” to mean a receptacle holding at least 200 cubic feet of volume which is used to transfer or ship household goods as part of a household move.

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