

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 513 Delivery of Notices
SPONSOR(S): Civil Justice Subcommittee, Altman
TIED BILLS: IDEN./SIM. **BILLS:** SB 7020

FINAL HOUSE FLOOR ACTION: 112 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 513 passed the House on March 5, 2024, as SB 7020 as amended.

Section 1.01, Florida Statutes, provides definitions that apply throughout the entirety of the Florida Statutes. As such, when reading any section of the Florida Statutes, the defined terms under s. 1.01, F.S., carry the meaning listed under s. 1.01, F.S., context permitting.

Section 1.01(11), F.S., provides that the term "registered mail" includes certified mail with return receipt requested. In turn, the terms "registered mail," "certified mail," and "return receipt requested," are used frequently throughout the Florida Statutes. Generally, registered mail contemplates an extra service by the United States Postal Service (USPS) which allows the sender to confirm that a document or piece of mail has been successfully delivered to the intended recipient.

The bill expands the definition of "registered mail" under s. 1.01(11), F.S., to include any delivery service by the USPS or a private delivery service that is regularly engaged in the delivery of documents which provides proof of mailing or shipping and proof of delivery.

The bill provides that the amendments made to the definition of registered mail are remedial in nature and apply retroactively.

The bill may have a positive fiscal impact on the cost for sending items via certified mail or with return receipt requested. The bill may result in a decrease in the reliance on the USPS in favor of other private delivery services.

The bill was approved by the Governor on May 6, 2024, ch. 2024-147, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Section 1.01, Florida Statutes, provides definitions that apply throughout the entirety of the Florida Statutes. As such, when reading any section of the Florida Statutes, the defined terms under s. 1.01, F.S., carry the meaning listed under s. 1.01, F.S.,¹ as long as the context permits.

Section 1.01(11), F.S., provides that the term “registered mail” includes certified mail with return receipt requested.² The inclusion of “registered mail” under s. 1.01, F.S., is significant: the term “registered mail,” along with “certified mail,” and “return receipt requested,” are used frequently throughout the Florida Statutes. Generally, registered mail contemplates an extra service by the United States Postal Service (USPS) which allows the sender to confirm that a document or piece of mail has been successfully delivered to the intended recipient.

Certified Mail and Extra Services

In addition to traditional mail services, the USPS offers extra services to senders to ensure that sent mail is delivered. “Certified mail”³ provides the sender with a mailing receipt as confirmation that an item was sent (Form 3800/Receipt for Certified Mail).⁴ When opting to send a document via certified mail, the sender must attach a mailing receipt (Form 3800) when mailing the item. The certified mail service assigns a unique identifier to the mail piece and provides electronic verification of delivery or attempted delivery. As such, the sender is able to confirm that his or her mail did not get lost or remain stationary at any midpoint post office or station, but successfully made it to its destination.

Certified mail service may also be combined with “return receipt service” to provide the sender proof of signature, with the option of receiving the return receipt by mail or electronically.⁵ Mailing an item via certified mail through USPS requires an additional fee of \$4.35.⁶ Certified mail with restricted delivery or with adult signature required costs a fee of \$11.45.⁷

The image shows two sample USPS forms. The left form is Form 3811, 'Domestic Return Receipt', which is divided into two sections: 'SENDER: COMPLETE THIS SECTION' and 'COMPLETE THIS SECTION ON DELIVERY'. The 'SENDER' section includes instructions to complete items 1, 2, and 3, print name and address on the reverse, and attach the card to the mailpiece. It also has a field for 'Article Addressed to:' and a barcode with the number 9590 9401 0000 5191 0000 12. The 'DELIVERY' section includes fields for signature, address, received by name, date of delivery, and service type (e.g., Certified Mail, Registered Mail, Restricted Delivery). The right form is Form 3800, 'Receipt for Certified Mail', which features a USPS tracking number, a barcode, and a large box for the sender's name, address, and ZIP+4. Both forms have 'SAMPLE' text overlaid on them.

¹ S. 1.01, F.S.

² S. 1.01(11), F.S.

³ “Certified mail” and “registered mail” are registered trademarks owned by the USPS. See USPS, *Trademarks*,

https://about.usps.com/strategic-planning/cs09/CSPO_09_001.htm#:~:text=The%20following%20are%20among%20the,First%2Dclass%2E%84%A2%2C%20First%2D (last visited Jan. 19, 2024).

⁴ USPS, *Certified Mail the Basics*, <https://faq.usps.com/s/article/Certified-Mail-The-Basics#whatiscm> (last visited Jan. 19, 2024).

⁵ *Id.*

⁶ USPS, *Price List: Certified Mail*,

https://pe.usps.com/text/dmm300/Notice123.htm?_gl=1*1w0dt0*_gcl_au*MTE5MjUxMzMyNC4xNzA1NjkxMjM2*_ga*OTEyOTQ4Nzc5LjE3MDU2OTEyMzY.*_ga_3NXP3C8S9*MTcwNTY5MTIzNS4xLjEuMTcwNTY5MjM0My4wLjAuMA..#_c191 (last visited Jan. 19, 2024).

⁷ *Id.*

⁸ USPS, *Return Receipt the Basics*, https://faq.usps.com/s/article/Return-Receipt-The-Basics#Green_Card (last visited Jan. 19, 2024).

Historically, when a sender mailed an item with return receipt requested, he or she would attach a return receipt (Form 3811, more commonly referred to as a “green card”) (pictured above). The green card would be returned to the sender with the recipient’s signature on it, confirming the delivery of the mail piece. However, on July 1, 2020, the USPS revised its Mailing Standards in various sections to reflect the elimination of the return receipt option for merchandise service.⁹ As such, the traditional green card return service is no longer available in certain parts of the country.

Reliance on the U.S. Postal Service

Throughout Florida law, the term “registered mail” is used to require that proper notice is given to the right individuals. A few examples include the following:

- To initiate a suit against the state, two copies of the process must be sent via registered or certified mail to the Attorney General.¹⁰
- A subpoena may be served on the subject person in the manner required for service of process in the state or by certified mail showing receipt by the addressee.¹¹
- A landlord who intends to retain a renter’s security deposit must send written notice of such by certified mail to the tenant’s last known mailing address.¹²

The Florida Statutes do not specifically require registered mail or return receipt requested mail to be sent via the USPS as opposed to a private commercial carrier. This is because s. 1.01(11), F.S., states that “registered mail” includes certified mail with return receipt requested. Thus, a litigant, attorney, business owner, or other individual following the statutes to ensure proper notice of a lawsuit may be unsure whether a commercial mail carrier may be used. As such, it has been common practice to use the USPS and its certified mail and return receipt requested services as a safe harbor, given the statutory ambiguity.

For example, in a situation where a litigant has delivered a required notice to an opposing party via Federal Express with signature confirmation required, the basic purpose of registered mail requirements, which is to ensure that the recipient actually received the notice on a date certain, has arguably been accomplished. On the other hand, based upon the language in the statute specifically referring to “certified mail with return receipt requested,” the opposing party could argue that the definition of registered mail only contemplates delivery via the USPS, not Federal Express; and accordingly, that the delivery of the notice via Federal Express does not comply with statutory requirements and is invalid.

This dynamic exists against the backdrop of a changing landscape of the USPS and an effort for USPS practices to evolve to accommodate improvements in technology. The USPS’s elimination of return receipts for merchandise services signals a trend towards an increased use of technology and a decrease in physical paper receipt practices. Although the USPS has not yet eliminated return receipts for other kinds of domestic mail such as legal documents, it could choose to do so in the future.

Effect of the Bill

The bill amends the definition of “registered mail” under s. 1.01(11), F.S., to expand the types of delivery services that may be used in compliance with statutory mailing requirements in Florida. Specifically, the bill amends the definition of “registered mail” to include any delivery service by the USPS or a private delivery service that is regularly engaged in the delivery of documents which provides proof of mailing or shipping and proof of delivery. The bill eliminates the current ambiguity as

⁹ USPS, *Postal Bulletin 22546: Policies, Procedures, and Forms Updates*, at 15, May 21, 2020, https://about.usps.com/postal-bulletin/2020/pb22546/html/updt_002.htm (last visited Jan. 19, 2024).

¹⁰ S. 48.121, F.S.

¹¹ S. 68.0831(2)(a), F.S.

¹² S. 83.49(3)(a), F.S.

to whether delivery services other than USPS may be utilized and allows other carriers like Federal Express and UPS to satisfy the definition's requirements.

The bill provides that the amendments made to the definition of registered mail are remedial in nature and apply retroactively.

The bill was approved by the Governor on May 6, 2024, ch. 2024-147, L.O.F., and became effective on that date.

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 explicit expansion of delivery services available to comply with Florida law may result in an increase in revenue for private delivery services.

D. FISCAL COMMENTS:

The bill may result in a decrease in the reliance on the USPS in favor of other private delivery services. As such, the USPS may see a decrease in revenue associated the reduction in use of its services.