

AMENDED IN SENATE AUGUST 16, 2004

AMENDED IN SENATE JUNE 28, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2170**

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**Introduced by Assembly Member Calderon**

February 18, 2004

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An act to amend Sections 7500.2, 7507.3, 7507.9, 7507.10, and 7508.2 of, to add Section 7505.2 to, to repeal Section 7506 of, and to repeal and add Section 7500.1 of, the Business and Professions Code, relating to repossession agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2170, as amended, Calderon. Collateral recovery.

Existing law, the Collateral Recovery Act, provides for the licensing and regulation of repossession agencies. The act requires a licensed repossession agency to make an inventory of personal effects at the time the collateral is recovered, and requires the inventory to be signed by the repossession agency registrant or employee who performs the inventory and to include the name, address, business hours, and telephone number of the person at the repossession agency to contact for recovering personal effects.

This bill would delete the signature requirement for the inventory of personal effects and would require the permanent records of the licensee to indicate the name of the employee or registrant who performed the inventory. The bill would require the inventory to include the name, address, business hours, and phone numbers of the

repossession agency, rather than of the person at the repossession agency to be contacted for recovery of personal effects.

Existing law requires a licensee to serve a debtor with notice of a seizure of collateral that includes the name, address, and telephone number of the representative of the legal owner and of the representative of the repossession agency to be contacted regarding the repossession.

This bill would instead require that the notice include the name, address, and telephone number of the legal owner and of the repossession agency to be contacted regarding the repossession.

Existing law authorizes the assessment of specified administrative fines against a licensee that uses collateral or personal effects for the personal benefit of the licensee or officer, partner, manager, registrant, or employee of the licensee.

This bill would specify that this provision does not prohibit the using or taking of personal ~~property~~ *effects* connected, adjoined, or affixed to the collateral through an unbroken sequence if the use or taking is reasonably necessary to effectuate the recovery in a safe manner or to protect the collateral or personal effects. *The bill would prohibit a storage fee from being charged on these personal effects for the first week.*

The bill would make other related changes.

Because this bill would place additional requirements on a person licensed under the Collateral Recovery Act, the violation of which is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7500.1 of the Business and Professions
- 2 Code is repealed.
- 3 SEC. 2. Section 7500.1 is added to the Business and
- 4 Professions Code, to read:



1 7500.1. The following terms as used in this chapter have the  
2 meaning expressed in this section.

3 (a) "Advertisement" means any written or printed  
4 communication, including a directory listing, except a free  
5 telephone directory listing which does not allow space for a license  
6 number.

7 (b) "Assignment" means a written authorization by the legal  
8 owner, lienholder, lessor or lessee to skip trace, locate, or repossess  
9 or to collect money payment in lieu of repossession of, any  
10 collateral, including, but not limited to, collateral registered under  
11 the Vehicle Code that is subject to a security agreement that  
12 contains a repossession clause. "Assignment" also means a  
13 written authorization by an employer to recover any collateral  
14 entrusted to an employee or former employee if the possessor is  
15 wrongfully in possession of the collateral. A photocopy, facsimile  
16 copy, or electronic copy of an assignment shall have the same force  
17 and effect as an original written assignment.

18 (c) "Bureau" means the Bureau of Security and Investigative  
19 Services.

20 (d) "Chief" means the Chief of the Bureau of Security and  
21 Investigative Services.

22 (e) "Collateral" means any vehicle, boat, recreational vehicle,  
23 motor home, appliance, or other property that is subject to a  
24 security agreement.

25 (f) "Combustibles" means any substance or article that is  
26 capable of undergoing combustion or catching fire, or that is  
27 flammable, if retained.

28 (g) "Dangerous drugs" means any controlled substances as  
29 defined in Chapter 2 (commencing with Section 11053) of  
30 Division 10 of the Health and Safety Code.

31 (h) "Deadly weapon" means and includes any instrument or  
32 weapon of the kind commonly known as a blackjack, slungshot,  
33 billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or  
34 revolver, or any other firearm, any knife having a blade longer than  
35 five inches, any razor with an unguarded blade, and any metal pipe  
36 or bar used or intended to be used as a club.

37 (i) "Debtor" means any person obligated under a security  
38 agreement.

39 (j) "Department" means the Department of Consumer Affairs.

40 (k) "Director" means the Director of Consumer Affairs.



- 1 (l) “Health hazard” means any personal effects which if  
2 retained would produce an unsanitary or unhealthful condition.
- 3 (m) “Legal owner” means a person holding a security interest  
4 in any collateral that is subject to a security agreement, a lien  
5 against any collateral, or an interest in any collateral that is subject  
6 to a lease agreement.
- 7 (n) “Licensee” means an individual, partnership, limited  
8 liability company, or corporation licensed under this chapter as a  
9 repossession agency.
- 10 (o) “Multiple licensee” means a repossession agency holding  
11 more than one repossession license under this chapter, with one  
12 fictitious trade style and ownership, conducting repossession  
13 business from additional licensed locations other than the location  
14 shown on the original license.
- 15 (p) “Person” includes any individual, partnership, limited  
16 liability company, or corporation.
- 17 (q) “Personal effects” means any property that is not the  
18 property of the legal owner.
- 19 (r) “Private building” means and includes any dwelling,  
20 outbuilding, or other enclosed structure.
- 21 (s) “Qualified certificate holder” or “qualified manager” is a  
22 person who possesses a valid qualification certificate in  
23 accordance with the provisions of Article 5 (commencing with  
24 Section 7504) and is in active control or management of, and who  
25 is a director of, the licensee’s place of business.
- 26 (t) “Registrant” means a person registered under this chapter.
- 27 (u) “Secured area” means and includes any fenced and locked  
28 area.
- 29 (v) “Security agreement” means an obligation, pledge,  
30 mortgage, chattel mortgage, lease agreement, deposit, or lien,  
31 given by a debtor as security for payment or performance of his or  
32 her debt, by furnishing the creditor with a recourse to be used in  
33 case of failure in the principal obligation. “Security agreement”  
34 also includes a bailment where an employer-employee  
35 relationship exists or existed between the bailor and the bailee.
- 36 (w) “Services” means any duty or labor to be rendered by one  
37 person for another.
- 38 (x) “Violent act” means any act that results in bodily harm or  
39 injury to any party involved.



1 SEC. 3. Section 7500.2 of the Business and Professions Code  
2 is amended to read:

3 7500.2. A repossession agency means and includes any  
4 person who, for any consideration whatsoever, engages in  
5 business or accepts employment to locate or recover collateral,  
6 whether voluntarily or involuntarily, including, but not limited to,  
7 collateral registered under the provisions of the Vehicle Code  
8 which is subject to a security agreement, except for any person  
9 registered pursuant to Article 7 (commencing with Section 7506).

10 SEC. 4. Section 7505.2 is added to the Business and  
11 Professions Code, to read:

12 7505.2. Nothing in this chapter prohibits the using or taking  
13 of personal ~~property that is~~ *effects that are* connected, adjoined, or  
14 affixed to the collateral through an unbroken sequence, if that use  
15 or taking is reasonably necessary to effectuate the recovery in a  
16 safe manner or to protect the collateral or personal effects. *No*  
17 *storage fee shall be charged for the first week on any personal*  
18 *effects used to effectuate a recovery pursuant to this section. Any*  
19 *personal effects used or taken pursuant to this section shall be*  
20 *processed in a reasonably expedient manner pursuant to Sections*  
21 *7507.9 and 7507.10.*

22 SEC. 5. Section 7506 of the Business and Professions Code  
23 is repealed.

24 SEC. 6. Section 7507.3 of the Business and Professions Code  
25 is amended to read:

26 7507.3. A repossession agency shall be required to keep and  
27 maintain adequate records of all transactions, including, but not  
28 limited to, assignment forms; vehicle report of repossession  
29 required by Section 28 of the Vehicle Code; vehicle condition  
30 reports, including odometer readings, if available; personal effects  
31 inventory; notice of seizure; and records of all transactions  
32 pertaining to the sale of collateral that has been repossessed,  
33 including, but not limited to, bids solicited and received, cash  
34 received, deposits made to the trust account, remittances to the  
35 seller, and allocation of any moneys not so remitted to appropriate  
36 ledger accounts. Records, including bank statements of the trust  
37 account, shall be retained for a period of not less than four years  
38 and shall be available for examination by the bureau upon demand.  
39 In addition, collateral and personal effects storage areas shall be  
40 made accessible for inspection by the bureau upon demand. An



1 assignment form may be an original, a photocopy, a facsimile  
2 copy, or a copy stored in an electronic format.

3 SEC. 7. Section 7507.9 of the Business and Professions Code  
4 is amended to read:

5 7507.9. Personal effects shall be removed from the collateral.  
6 A complete and accurate inventory of the personal effects shall be  
7 made, and the personal effects shall be labeled and stored by the  
8 licensee for a minimum of 60 days in a secure manner, except those  
9 personal effects removed by or in the presence of the debtor or the  
10 party in possession of the collateral at the time of the repossession.

11 (a) The date and time the inventory is made shall be indicated.  
12 The permanent records of the licensee shall indicate the name of  
13 the employee or registrant who performed the inventory.

14 (b) The following items of personal effects are items  
15 determined to present a danger or health hazard when recovered  
16 by the licensee and shall be disposed of in the following manner:

17 (1) Deadly weapons and dangerous drugs shall be turned over  
18 to any law enforcement agency for retention. These items shall be  
19 entered on the inventory and a notation shall be made as to the date  
20 and the time and the place the deadly weapon or dangerous drug  
21 was turned over to the law enforcement agency, and a receipt from  
22 the law enforcement agency shall be maintained in the records of  
23 the repossession agency.

24 (2) Combustibles shall be inventoried and noted as “disposed  
25 of, dangerous combustible,” and the item shall be disposed of in  
26 a reasonable and safe manner.

27 (3) Food and other health hazard items shall be inventoried and  
28 noted as “disposed of, health hazard,” and disposed of in a  
29 reasonable and safe manner.

30 (c) Personal effects may be disposed of after being held for at  
31 least 60 days. The inventory, and adequate information as to how,  
32 when, and to whom the personal effects were disposed of, shall be  
33 filed in the permanent records of the licensee.

34 (d) The inventory shall include the name, address, business  
35 hours, and telephone number of the repossession agency to contact  
36 for recovering the personal effects and an itemization of all  
37 personal effects removal and storage charges that will be made by  
38 the repossession agency. The inventory shall also include the  
39 following statement: “Please be advised that the property listed on  
40 this inventory will be disposed of by the repossession agency after



1 being held for 60 days from the date of this notice IF  
2 UNCLAIMED.”

3 (e) The inventory shall be provided to a debtor not later than 48  
4 hours after the recovery of the collateral, except that if:

5 (1) The 48-hour period encompasses a Saturday, Sunday, or  
6 postal holiday, the inventory shall be provided no later than 72  
7 hours after the recovery of the collateral.

8 (2) The 48-hour period encompasses a Saturday or Sunday and  
9 a postal holiday, the inventory shall be provided no later than 96  
10 hours after the recovery of the collateral.

11 (3) Inventory resulting from repossession of a yacht,  
12 ~~motorhome~~ *motor home*, or travel trailer is such that it shall take  
13 at least four hours to inventory, then the inventory shall be  
14 provided no later than 96 hours after the recovery of the collateral.  
15 When the 96-hour period encompasses a Saturday, Sunday, or  
16 postal holiday, the inventory shall be provided no later than 120  
17 hours after the recovery of the collateral.

18 (f) Environmental, Olympic, special interest, or other license  
19 plates issued pursuant to Article 8 (commencing with Section  
20 5000), Article 8.4 (commencing with Section 5060) or Article 8.5  
21 (commencing with Section 5100) of Chapter 1 of Division 3 of the  
22 Vehicle Code that remain the personal effects of the debtor shall  
23 be removed from the collateral and inventoried pursuant to this  
24 section. If the plates are not claimed by the debtor within 60 days,  
25 they shall be effectively destroyed and the licensee shall, within 30  
26 days thereafter, notify the Department of Motor Vehicles of their  
27 effective destruction on a form promulgated by the chief that has  
28 been approved as to form by the Director of the Department of  
29 Motor Vehicles.

30 (g) The notice may be given by regular mail addressed to the  
31 last known address of the debtor or by personal service at the  
32 option of the repossession agency.

33 (h) The debtor may waive the preparation and presentation of  
34 an inventory if the debtor redeems the personal effects or other  
35 personal property not covered by a security interest within the time  
36 period for the notices required by this section and signs a statement  
37 that he or she has received all the property.

38 (i) If personal effects or other personal property not covered by  
39 a security agreement are to be released to someone other than the



1 debtor, the repossession agency may request written authorization  
2 to do so from either the debtor or the legal owner.

3 (j) The inventory shall be a confidential document. A licensee  
4 shall only disclose the contents of the inventory under the  
5 following circumstances:

6 (1) In response to the order of a court having jurisdiction to  
7 issue the order.

8 (2) In compliance with a lawful subpoena issued by a court of  
9 competent jurisdiction.

10 (3) When the debtor has consented in writing to the release and  
11 the written consent is signed and dated by the debtor subsequent  
12 to the repossession and states the entity or entities to whom the  
13 contents of the inventory may be disclosed.

14 SEC. 8. Section 7507.10 of the Business and Professions  
15 Code is amended to read:

16 7507.10. A licensee shall serve a debtor with a notice of  
17 seizure as soon as possible after the recovery of collateral and not  
18 later than 48 hours, except that if the 48-hour period encompasses  
19 a Saturday, Sunday, or postal holiday, the notice of seizure shall be  
20 provided not later than 72 hours or, if the 48-hour period  
21 encompasses a Saturday or Sunday and a postal holiday, the notice  
22 of seizure shall be provided not later than 96 hours, after the  
23 repossession of collateral. The notice shall include all of the  
24 following:

25 (a) The name, address, and telephone number of the legal  
26 owner to be contacted regarding the repossession.

27 (b) The name, address, and telephone number of the  
28 repossession agency to be contacted regarding the repossession.

29 (c) A statement printed on the notice containing the following:  
30 “Repossessors are regulated by the Bureau of Security and  
31 Investigative Services, Department of Consumer Affairs,  
32 Sacramento, CA 95814. Repossessors are required to provide you,  
33 not later than 48 hours after the recovery of collateral, with an  
34 inventory of personal effects or other personal property recovered  
35 during repossession unless the 48-hour period encompasses a  
36 Saturday, Sunday, or a postal holiday, then the inventory shall be  
37 provided no later than 96 hours after the recovery of collateral.”

38 (d) A disclosure that “Damage to a vehicle during or  
39 subsequent to a repossession and only while the vehicle is in  
40 possession of the repossession agency and which is caused by the



1 repossession agency is the liability of the repossession agency. A  
2 mechanical or tire failure shall not be the responsibility of the  
3 repossession agency unless the failure is due to the negligence of  
4 the repossession agency.”

5 (e) If applicable, a disclosure that “Environmental, Olympic,  
6 special interest, or other license plates issued pursuant to Article  
7 8 (commencing with Section 5000), Article 8.4 (commencing with  
8 Section 5060) or Article 8.5 (commencing with Section 5100) of  
9 Chapter 1 of Division 3 of the Vehicle Code that remain the  
10 personal effects of the debtor will be removed from the collateral  
11 and inventoried, and that if the plates are not claimed by the debtor  
12 within 60 days, they will be destroyed.”

13 (f) A disclosure of the charges payable by the debtor to the  
14 repossession agency for the storage of the collateral and personal  
15 effects from the date of repossession until release of the property  
16 from storage.

17 The notice may be given by regular mail addressed to the last  
18 known address of the debtor or by personal service at the option  
19 of the repossession agency.

20 SEC. 9. Section 7508.2 of the Business and Professions Code  
21 is amended to read:

22 7508.2. The director may assess administrative fines for any  
23 of the following prohibited acts:

24 (a) Recovering collateral or making any money demand in lieu  
25 thereof, including, but not limited to, collateral registered under  
26 the Vehicle Code, that has been sold under a security agreement  
27 before a signed or telegraphic authorization has been received  
28 from the legal owner, debtor, lienholder, lessor, or repossession  
29 agency acting on behalf of the legal owner, debtor, lienholder, or  
30 lessor of the collateral. A telephonic assignment is acceptable if the  
31 legal owner, debtor, lienholder, lessor, or repossession agency  
32 acting on behalf of the legal owner, debtor, lienholder, or lessor is  
33 known to the licensee and a written authorization from the legal  
34 owner, debtor, lienholder, lessor, or repossession agency acting on  
35 behalf of the legal owner, debtor, lienholder, or lessor is received  
36 by the licensee within 10 working days or a request by the licensee  
37 for a written authorization from the legal owner, debtor,  
38 lienholder, lessor, or repossession agency acting on behalf of the  
39 legal owner, debtor, lienholder, or lessor is made in writing within  
40 10 working days. Referrals of assignments from one licensee to



1 another licensee are acceptable. The referral of an assignment shall  
2 be made under the same terms and conditions as in the original  
3 assignment. The fine shall be twenty-five dollars (\$25) for each of  
4 the first five violations and one hundred dollars (\$100) for each  
5 violation thereafter, per audit.

6 (b) Using collateral or personal effects, which have been  
7 recovered, for the personal benefit of a licensee, or officer, partner,  
8 manager, registrant, or employee of a licensee. The fine shall be  
9 twenty-five dollars (\$25) for the first violation and one hundred  
10 dollars (\$100) for each violation thereafter. This subdivision does  
11 not apply to personal effects disposed of pursuant to subdivision  
12 (c) of Section 7507.9. Nothing in this subdivision prohibits the  
13 using or taking of personal property connected, adjoined, or  
14 affixed to the collateral through an unbroken sequence if that use  
15 or taking is reasonably necessary to effectuate the recovery in a  
16 safe manner or to protect the collateral or personal effects.

17 (c) Selling collateral recovered under the provisions of this  
18 chapter, except with written authorization from the legal owner or  
19 mortgagee thereof. The fine shall be one hundred dollars (\$100)  
20 for the first violation and five hundred dollars (\$500) for each  
21 violation thereafter, per audit.

22 (d) Failing to remit all money due clients within 10 working  
23 days after finalization of the sale of collateral. The licensee shall  
24 deposit all money received in the form of cash or negotiable  
25 instruments made payable to the licensee for money due clients  
26 from the sale of collateral that has been repossessed in a trust  
27 account within five working days, and the money shall be  
28 withdrawn only for remittance to the client and for the payment of  
29 amounts due the licensee. The fine shall be two hundred fifty  
30 dollars (\$250) for the first violation and one thousand dollars  
31 (\$1,000) for each violation thereafter. For purposes of this  
32 subdivision, “finalization of sale” means the time when the  
33 documents of title or ownership which permit transfer of title from  
34 the legal owner to the purchaser are received by the repossession  
35 agency.

36 (e) Failing to remit moneys collected in lieu of repossession or  
37 redemption to a client within 10 working days after receipt of the  
38 moneys. The fine shall be two hundred fifty dollars (\$250) for the  
39 first violation and one thousand dollars (\$1,000) for each violation  
40 thereafter.



1 (f) Failing to deliver to a client any negotiable instrument  
2 received by the licensee made payable to the client within 10  
3 working days of receipt of the negotiable instrument. No licensee,  
4 manager, registrant, or employee of a licensee shall accept a  
5 negotiable instrument made payable to a client unless they have  
6 authorization from the client to accept the negotiable instrument.  
7 The fine shall be two hundred fifty dollars (\$250) for the first  
8 violation and one thousand dollars (\$1,000) for each violation  
9 thereafter.

10 (g) Unlawfully entering any private building or secured area  
11 without the consent of the owner, or of the person in legal  
12 possession thereof, at the time of repossession. The fine shall be  
13 five hundred dollars (\$500) for each violation.

14 (h) Committing unlawful assault or battery on another person.  
15 The fine shall be five hundred dollars (\$500) for each violation.

16 (i) Falsification or alteration of an inventory. The fine shall be  
17 twenty-five dollars (\$25) for each violation.

18 (j) Soliciting from the legal owner the recovery of specific  
19 collateral registered under the Vehicle Code or under the motor  
20 vehicle licensing laws of other states after the collateral has been  
21 seen or located on a public street or on public or private property  
22 without divulging the location of the vehicle. The fine shall be one  
23 hundred dollars (\$100) for the first violation and two hundred fifty  
24 dollars (\$250) for each violation thereafter.

25 SEC. 10. No reimbursement is required by this act pursuant  
26 to Section 6 of Article XIII B of the California Constitution  
27 because the only costs that may be incurred by a local agency or  
28 school district will be incurred because this act creates a new crime  
29 or infraction, eliminates a crime or infraction, or changes the  
30 penalty for a crime or infraction, within the meaning of Section  
31 17556 of the Government Code, or changes the definition of a  
32 crime within the meaning of Section 6 of Article XIII B of the  
33 California Constitution.

