

AMENDED IN SENATE JUNE 4, 2007  
AMENDED IN SENATE MAY 1, 2007  
AMENDED IN SENATE APRIL 18, 2007  
AMENDED IN SENATE APRIL 9, 2007

**SENATE BILL**

**No. 729**

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**Introduced by Senator Padilla**

February 23, 2007

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An act to add Section 4456.3 and Chapter 11 (commencing with Section 12200) to Division 5 of, and to amend Sections 11703 and 11705 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 729, as amended, Padilla. Vehicles: dealers: consumer protection.

(1) Existing law imposes licensing and regulatory requirements on vehicle dealers. A violation of those requirements is a crime.

This bill would create the Consumer Motor Vehicle Recovery Corporation ("recovery corporation"), with a board of directors with certain powers and duties, in order to provide payments to consumers on eligible claims, including, but not limited to, a vehicle dealer or lessor-retailer's failure to remit license or registration fees or failure to pay proceeds of a consignment sale, subject to certain requirements and limitations. ~~The~~ *On and after July 1, 2008, the* Department of Motor Vehicles would be required to charge dealers or lessor-retailers a fee, as prescribed, for each vehicle sold by the dealers or lessor-retailers. Those fees, upon appropriation, would be paid to the recovery corporation in order to fund its operations and pay eligible consumer claims.

A violation of these requirements would be a crime. In addition, a violation of a requirement to submit certain applications under penalty of perjury would be a crime. Because this bill would create new crimes, the bill would create a state-mandated local program.

(2) 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. (a) The Legislature finds and declares that  
 2 consumers have suffered economic loss as the result of the conduct  
 3 of some motor vehicle dealers or lessor-retailers who have failed  
 4 to remit amounts paid by consumers for license and registration  
 5 fees, failed to pay the proceeds of consignment sales to consumer  
 6 consignors, and failed to discharge the obligations secured by liens  
 7 on motor vehicles, or the obligations remaining on leases of motor  
 8 vehicles, that are traded in in connection with the purchase of  
 9 motor vehicles from the dealers or lessor-retailers. The consumers  
 10 who have been harmed often do not have adequate resources to  
 11 pursue their claims against the dealers or lessor-retailers, and some  
 12 of the dealers or lessor-retailers are insolvent and cannot satisfy  
 13 legitimate claims. The resulting erosion of public confidence in  
 14 motor vehicle sellers has deleterious economic consequences for  
 15 reputable dealers and lessor-retailers.

16 (b) It is the intent and purpose of this act to establish a recovery  
 17 fund with adequate resources based on reasonable assessments for  
 18 each report-of-sale to compensate and safeguard members of the  
 19 public who have suffered monetary loss as the result of any of the  
 20 acts described in subdivision (a) and who are unable to have those  
 21 claims satisfied because of a dealership closure or insolvency.

22 SEC. 2. Section 4456.3 is added to the Vehicle Code, to read:  
 23 4456.3. (a) The department shall charge a dealer or  
 24 lessor-retailer a fee, as established by the director pursuant to  
 25 subdivision (b), for each vehicle sold by a dealer or lessor-retailer  
 26 and reported on a report-of-sale form issued by the department to

1 a dealer or lessor-retailer, or for every vehicle sold by a dealer or  
2 lessor-retailer if that licensee does not use a report-of-sale form  
3 issued by the department because the report of the sale is given  
4 electronically or otherwise. The department shall collect the fee,  
5 and upon appropriation, the fees shall be paid to the Consumer  
6 Motor Vehicle Recovery Corporation as described in Chapter 11  
7 (commencing with Section 12200) of Division 5.

8 (b) The director shall establish the fee at one dollar (\$1) and  
9 shall collect and, upon appropriation, transmit that fee to the  
10 Consumer Motor Vehicle Recovery Corporation until the  
11 Consumer Motor Vehicle Recovery Corporation notifies the  
12 department that the balance in the recovery fund maintained by  
13 the corporation has reached five million dollars (\$5,000,000).  
14 Thereafter, if the amount in the recovery fund maintained by the  
15 corporation is less than two million dollars (\$2,000,000), the  
16 Consumer Motor Vehicle Recovery Corporation shall notify the  
17 department of the amount necessary to return the recovery fund  
18 balance to five million dollars (\$5,000,000), and the department  
19 shall collect the fee only as necessary to maintain the recovery  
20 fund at that amount, and these fees shall be transmitted to the  
21 corporation, upon appropriation.

22 (c) (1) The Consumer Motor Vehicle Recovery Corporation  
23 shall reimburse the department for all reasonable expenses incurred  
24 in implementing this section.

25 (2) *The Consumer Motor Vehicle Recovery Corporation shall*  
26 *reimburse the department for all reasonable startup expenses*  
27 *incurred by the department to comply with this section within 90*  
28 *days after the department begins collecting the fees and*  
29 *transmitting them to the Corporation as provided in this section.*

30 (d) *This section shall become operative on July 1, 2008.*

31 SEC. 3. Section 11703 of the Vehicle Code is amended to read:

32 11703. The department may refuse to issue a license to a  
33 manufacturer, manufacturer branch, remanufacturer,  
34 remanufacturer branch, distributor, distributor branch, transporter,  
35 or dealer, if it determines any of the following:

36 (a) The applicant was previously the holder, or a managerial  
37 employee of the holder, of a license issued under this chapter which  
38 was revoked for cause and never reissued by the department, or  
39 which was suspended for cause and the terms of suspension have  
40 not been fulfilled.

1 (b) The applicant was previously a business representative of a  
2 business whose license issued under this chapter was revoked for  
3 cause and never reissued or was suspended for cause and the terms  
4 of suspension have not been fulfilled.

5 (c) If the applicant is a business, a business representative of  
6 the business was previously the holder of a license, or was a  
7 business representative of a business whose license, issued under  
8 this chapter was revoked for cause and never reissued or was  
9 suspended for cause and the terms of suspension have not been  
10 fulfilled; or, by reason of the facts and circumstances related to  
11 the organization, control, and management of the business, the  
12 operation of that business will be directed, controlled, or managed  
13 by individuals who, by reason of their conviction of violations of  
14 the provisions of this code, would be ineligible for a license and,  
15 by licensing the business, the purposes of this chapter would be  
16 defeated.

17 (d) The applicant, or a business representative if the applicant  
18 is a business, has been convicted of a crime or committed an act  
19 or engaged in conduct involving moral turpitude which is  
20 substantially related to the qualifications, functions, or duties of  
21 the licensed activity. A conviction after a plea of nolo contendere  
22 is a conviction within the meaning of this section.

23 (e) The applicant was previously the holder of an occupational  
24 license issued by another state, authorizing the same or similar  
25 activities of a license issued under this division; and that license  
26 was revoked or suspended for cause and was never reissued, or  
27 was suspended for cause, and the terms of suspension have not  
28 been fulfilled.

29 (f) The information contained in the application is incorrect.

30 (g) Upon investigation, the business history required by Section  
31 11704 contains incomplete or incorrect information, or reflects  
32 substantial business irregularities.

33 (h) A decision of the department to cancel, suspend, or revoke  
34 a license has been made and the applicant was a business  
35 representative of the business regulated under that license.

36 (i) The applicant has failed to repay the full amount of a claim  
37 paid by the Consumer Motor Vehicle Recovery Corporation, plus  
38 interest, as provided in subdivision (c) of Section 12210.

39 SEC. 4. Section 11705 of the Vehicle Code is amended to read:

1 11705. (a) The department, after notice and hearing, may  
2 suspend or revoke the license issued to a dealer, transporter,  
3 manufacturer, manufacturer branch, remanufacturer,  
4 remanufacturer branch, distributor, or distributor branch upon  
5 determining that the person to whom the license was issued is not  
6 lawfully entitled thereto, or has done any of the following:

7 (1) Filed an application for the license using a false or fictitious  
8 name not registered with the proper authorities, or knowingly made  
9 a false statement or knowingly concealed a material fact, in the  
10 application for the license.

11 (2) Made, or knowingly or negligently permitted, a *an* illegal  
12 use of the special plates issued to the licensee.

13 (3) Used a false or fictitious name, knowingly made a false  
14 statement, or knowingly concealed a material fact, in an application  
15 for the registration of a vehicle, or otherwise committed a fraud  
16 in the application.

17 (4) Failed to deliver to a transferee lawfully entitled thereto a  
18 properly endorsed certificate of ownership.

19 (5) Knowingly purchased, sold, or otherwise acquired or  
20 disposed of a stolen motor vehicle.

21 (6) Failed to provide and maintain a clear physical division  
22 between the type of business licensed pursuant to this chapter and  
23 any other type of business conducted at the established place of  
24 business.

25 (7) Willfully violated Section 3064 or 3065 or any rule or  
26 regulation adopted pursuant thereto.

27 (8) Violated any provision of Division 3 (commencing with  
28 Section 4000) or any rule or regulation adopted pursuant thereto,  
29 or subdivision (a) of Section 38200.

30 (9) Violated any provision of Division 4 (commencing with  
31 Section 10500) or any rule or regulation adopted pursuant thereto.

32 (10) Violated any provision of Article 1 (commencing with  
33 Section 11700) of Chapter 4 of Division 5 or any rule or regulation  
34 adopted pursuant thereto.

35 (11) Violated any provision of Part 5 (commencing with Section  
36 10701) of Division 2 of the Revenue and Taxation Code or any  
37 rule or regulation adopted pursuant thereto.

38 (12) Violated any provision of Chapter 2b (commencing with  
39 Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code  
40 or any rule or regulation adopted pursuant thereto.

1 (13) Submitted a check, draft, or money order to the department  
2 for any obligation or fee due the state which was dishonored or  
3 refused payment upon presentation.

4 (14) Has caused any person to suffer any loss or damage by  
5 reason of any fraud or deceit practiced on that person or fraudulent  
6 representations made to that person in the course of the licensed  
7 activity.

8 For purposes of this paragraph, “fraud” includes any act or  
9 omission which is included within the definition of either “actual  
10 fraud” or “constructive fraud” as defined in Sections 1572 and  
11 1573 of the Civil Code, and “deceit” has the same meaning as  
12 defined in Section 1710 of the Civil Code. In addition, “fraud”  
13 and “deceit” include, but are not limited to, a misrepresentation in  
14 any manner, whether intentionally false or due to gross negligence,  
15 of a material fact; a promise or representation not made honestly  
16 and in good faith; an intentional failure to disclose a material fact;  
17 and any act within Section 484 of the Penal Code.

18 For purposes of this paragraph, “person” also includes a  
19 governmental entity.

20 (15) Failed to meet the terms and conditions of an agreement  
21 entered into pursuant to Section 11707.

22 (16) Violated Section 43151, 43152, or 43153 of, or subdivision  
23 (b) of Section 44072.10 of, the Health and Safety Code.

24 (17) Failed to repay a claim paid by the Consumer Motor  
25 Vehicle Recovery Corporation as provided in subdivision (c) of  
26 Section 12210.

27 (b) Any of the causes specified in this chapter as a cause for  
28 refusal to issue a license to a transporter, manufacturer,  
29 manufacturer branch, remanufacturer, remanufacturer branch,  
30 distributor, distributor branch, or dealer applicant is cause to  
31 suspend or revoke a license issued to a transporter, manufacturer,  
32 manufacturer branch, remanufacturer, remanufacturer branch,  
33 distributor, distributor branch, or dealer.

34 (c) Except as provided in Section 11707, every hearing provided  
35 for in this section shall be conducted pursuant to Chapter 5  
36 (commencing with Section 11500) of Part 1 of Division 3 of Title  
37 2 of the Government Code.

38 SEC. 5. Chapter 11 (commencing with Section 12200) is added  
39 to Division 5 of the Vehicle Code, to read:

CHAPTER 11. CONSUMER RECOVERY FUND

12200. The following definitions apply to this chapter:

(a) “Application” means an application to the recovery corporation for the payment of an eligible claim from the recovery fund.

(b) “Consumer” means a person who either (1) purchased or leased, or became obligated to purchase or lease, a motor vehicle to be used primarily for personal, family, or household purposes from a dealer or lessor-retailer licensed under this code, or (2) consigned for sale a motor vehicle that was used primarily for personal, family, or household purposes to a dealer licensed under this code.

(c) “Eligible claim” means an unsatisfied claim for economic loss, not barred by the statutes of limitation, that accrues after July 1, 2008, as a result of the failure of a dealer licensed under this code, or if applicable, a lessor-retailer licensed under this code, to do any of the following:

(1) Remit license or registration fees received or contractually obligated to be paid from a consumer to the department.

(2) Pay to the lessor registered in accordance with Section 4453.5 or the legal owner of a vehicle transferred as a trade-in by a consumer to the dealer the amount necessary to discharge the prior credit or lease balance owed to the lessor or legal owner.

(3) Pay the amount specified in a consignment agreement to a consumer after the sale of a consigned vehicle.

(d) “Participant” means a dealer licensed under this code or a lessor-retailer licensed under this code.

(e) “Recovery corporation” means the Consumer Motor Vehicle Recovery Corporation.

(f) “Recovery fund” means the consumer recovery fund established by the recovery corporation pursuant to Section 12203 for the payment of eligible claims.

12201. (a) Participants shall maintain a corporation under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) that shall operate under the name “Consumer Motor Vehicle Recovery Corporation.”

1 (b) The purpose of the Consumer Motor Vehicle Recovery  
2 Corporation is to provide payments to consumers on eligible claims  
3 subject to the requirements and limitations set forth in this chapter.

4 (c) A participant may not charge or collect from a consumer a  
5 separate fee or charge to recoup the fee paid by the participant  
6 pursuant to Section 4456.3.

7 (d) The State of California and its officers, agents, or employees  
8 shall not be liable for an act or omission of the recovery corporation  
9 or its directors, officers, agents, or employees.

10 12202. (a) The recovery corporation shall have a board of  
11 directors composed of six directors, as follows:

12 (1) One public consumer representative member appointed by  
13 the Director of the Department of Consumer Affairs who shall  
14 serve until the appointment is revoked, another appointment is  
15 made, or until the director resigns.

16 (2) One employee of the Department of Justice, assigned by the  
17 office of the Attorney General, who shall serve as an ex officio,  
18 nonvoting member.

19 (3) Four directors who are participants. Participant directors  
20 shall be elected by a balloting of all participants in the recovery  
21 corporation in an election to be conducted by the recovery  
22 corporation in February of each year. Participant directors shall  
23 be elected to serve two-year terms, with two of the four participant  
24 directors being elected each year to staggered two-year terms.

25 (b) A person is eligible to be nominated and to serve as a  
26 participant director if the person satisfies all of the following  
27 conditions:

28 (1) The person’s primary occupation, at the time of nomination  
29 and continuously during the previous three years, has been as an  
30 owner or general manager of a licensed dealer or lessor-retailer.

31 (2) The person has not been convicted of a crime, including a  
32 plea or verdict of guilty or a conviction following a plea of nolo  
33 contendere.

34 (3) The person is not subject to a judgment or administrative  
35 order, whether entered after adjudication or stipulation, predicated  
36 on that person’s commission of an act of dishonesty, fraud, deceit,  
37 or violation of this chapter or Chapter 5 (commencing with Section  
38 17200) of Part 2 of Division 7 of the Business and Professions  
39 Code.

1 (4) The person is not a defendant in a pending criminal or civil  
2 law enforcement action brought by a public prosecutor.

3 (5) The person has not served as a participant director of the  
4 recovery corporation at any time during the previous 18 months.

5 (6) Within five days after the end of the nomination period, the  
6 person nominated to be a director submits an application to the  
7 recovery corporation, signed under penalty of perjury, that attests  
8 to the person's satisfaction of all of the conditions specified in  
9 paragraphs (1) to (5), inclusive.

10 (c) The recovery corporation may not impose requirements for  
11 nomination to be a participant director in addition to the  
12 requirements described in subdivision (b).

13 (d) The nomination period shall be open for the period beginning  
14 90 days and ending 30 days before the election. A participant may  
15 nominate for election a participant who is eligible to serve as  
16 provided in subdivision (b).

17 (e) The recovery corporation shall enable nominees to submit,  
18 within 21 days before the election, written statements of up to 500  
19 words in a reasonable format concerning their candidacy and shall  
20 mail those statements to participants in the recovery corporation  
21 and make those statements publicly available no later than 14 days  
22 before the election by means that may include disseminating the  
23 information on an Internet Web site or providing the information  
24 by electronic mail to a person who has requested the information  
25 and provided a valid electronic mail address.

26 (f) A director who does not qualify to be a participant or who  
27 otherwise becomes unable to serve shall not continue to serve as  
28 director. The board of the recovery corporation shall adopt rules  
29 setting forth the procedures to determine that a director is no longer  
30 able to serve as a director and for the board to elect a successor to  
31 serve as director until the next election.

32 12203. (a) The recovery corporation shall establish a consumer  
33 recovery fund for the payment of claims as provided in this chapter.  
34 The recovery corporation shall receive funds from the department  
35 as provided in Section 4456.3 and shall promptly notify the  
36 department when the recovery fund balance reaches the amounts  
37 specified in subdivision (b) of Section 4456.3.

38 (b) The recovery corporation shall establish and maintain an  
39 operations account within the recovery fund for the payment of  
40 costs of operations and administration. The recovery corporation

1 shall prepare, prior to its fiscal yearend, an estimated annual  
2 operational budget projecting the costs of operations and  
3 administration for the succeeding fiscal year, excluding the amount  
4 paid for claims. The recovery corporation shall not expend more  
5 than two hundred fifty thousand dollars (\$250,000) each fiscal  
6 year from the operations account for the administration of this  
7 chapter.

8 (c) The recovery corporation shall invest all funds received from  
9 the department pursuant to Section 4456.3, and interest earned on  
10 those funds, deposited in the recovery fund, in a federally insured  
11 account or in federally insured certificates of deposit at a California  
12 state or federally chartered bank or savings bank.

13 (d) The recovery corporation holds all money in the recovery  
14 fund in trust for the purposes provided in this chapter and shall  
15 disburse funds only as provided in this chapter.

16 (e) The recovery corporation shall separately account for  
17 disbursements and collections. The accounting shall include a  
18 record of each claim paid that indicates the name, address, and  
19 phone number of each claimant receiving payment, the amount of  
20 the payment, and the name of the participant for which a claim  
21 was paid. Quarterly reports shall be provided to the office of the  
22 Attorney General, Consumer Law Section.

23 (f) The recovery corporation may adopt reasonable written  
24 bylaws, rules, and procedures to carry out the purposes of this  
25 chapter.

26 12204. (a) A consumer may file an application with the  
27 recovery corporation for the payment of the consumer's eligible  
28 claim if a dealer or lessor-retailer against whom the claim is  
29 asserted has ceased selling and leasing motor vehicles to the general  
30 public or has become subject to a petition in bankruptcy.

31 (b) The application shall be verified and shall set forth the  
32 consumer's name, address, and telephone number and the amount  
33 and description of the eligible claim, and what action, if any, the  
34 applicant has taken to recover the amount of the eligible claim.  
35 Nothing in this chapter shall be construed to require a consumer  
36 to bring a civil action to obtain recovery, file a bankruptcy claim,  
37 or file a crime report with a law enforcement agency in order to  
38 obtain payment of an eligible claim submitted to the recovery  
39 corporation.

1 (c) The application shall be accompanied by a copy of the  
2 agreement between the consumer and the dealer or lessor-retailer,  
3 unless the agreement is unnecessary to the recovery corporation's  
4 determination of the validity of the claim.

5 (d) If the eligible claim is based on the failure to remit license  
6 or registration fees, the application shall be accompanied by  
7 evidence demonstrating that the consumer paid money or other  
8 consideration for the fees, or became obligated to pay the fees,  
9 and that the fees had not been remitted. The eligible claim shall  
10 be limited to the dollar amount of the license or registration fees  
11 not remitted and a late charge or penalty.

12 (e) If the eligible claim is based on the failure to pay the  
13 proceeds of a consignment sale, the application shall be  
14 accompanied by the consignment agreement, evidence that the  
15 consigned vehicle was sold, and by the consumer's verified  
16 statement that the consumer did not receive the portion of the  
17 proceeds of the sale to which the consumer was entitled. The  
18 eligible claim is limited to the dollar amount specified in a written  
19 consignment agreement to be paid to the consignor.

20 (f) If the eligible claim is based on the failure to pay the legal  
21 owner of the consumer's trade-in vehicle, the application shall be  
22 accompanied by a statement from the legal owner of the amount,  
23 if any, that he or she received from the dealer or lessor-retailer.  
24 The eligible claim is limited to the dollar amount necessary to  
25 discharge the credit or lease balance owing on the trade-in vehicle.

26 (g) The recovery corporation may require reasonable additional  
27 information designed to facilitate payment of eligible claims.

28 (h) The application shall be filed within one year of the date  
29 upon which the dealer or lessor-retailer ceased selling or leasing  
30 motor vehicles to the general public or became subject to a petition  
31 in bankruptcy.

32 12205. The recovery corporation shall develop a notice fully  
33 explaining a consumer's right to make a claim from the fund, an  
34 application form, and an explanation of how to complete the  
35 application. The notice, application, and explanation shall be in  
36 English and Spanish and shall be provided to a person upon request.

37 12206. (a) Within 30 days of receiving an application, the  
38 recovery corporation shall notify the applicant, in writing, that the  
39 application is complete or, if the application is incomplete, what  
40 additional information is required.

1 (b) (1) Within 60 days of the recovery corporation's receipt of  
2 a complete application, the recovery corporation shall either pay  
3 the eligible claim from the fund as prescribed in this chapter or  
4 deny the claim. A claim shall be deemed granted unless three  
5 directors affirmatively vote to deny the claim.

6 (2) The recovery corporation, for good cause, may extend the  
7 60-day period not more than an additional 90 days to investigate  
8 the accuracy of the application or evidence submitted by a dealer  
9 or lessor-retailer.

10 (c) A director shall not be involved in the decision of a claim  
11 if the director has a financial interest in the outcome of the decision;  
12 has a financial interest in or is employed by the participant that is  
13 the subject of the claim; or has a familial or close personal  
14 relationship with the claimant or an owner, officer, director, or  
15 manager of the participant.

16 12207. (a) Within 15 days of receiving a complete application,  
17 the recovery corporation shall serve a copy of the complete  
18 application and the following notice on the dealer or lessor-retailer  
19 that is the subject of the claim:

20  
21 "NOTICE"

22  
23 "The attached application has been made to the Consumer Motor  
24 Vehicle Recovery Corporation for payment of a claim allegedly  
25 arising out of your conduct or omission. If you wish to contest  
26 payment, you must file a written response to the application that  
27 describes any evidence that you have showing that the application  
28 is inaccurate or that payment from the fund is not authorized under  
29 Section 12200 and following of the Vehicle Code, a copy of which  
30 is provided.

31 "The allegations stated in the attached application may constitute  
32 grounds on which disciplinary action may be taken to suspend or  
33 revoke your license. In addition, the Department of Motor Vehicles  
34 may suspend your license until you have repaid in full the amount  
35 paid by the Consumer Motor Vehicle Recovery Corporation on  
36 the attached application, plus interest at the rate of 10 percent per  
37 annum."

38  
39 (b) The notice prescribed by subdivision (a), a copy of the  
40 application for payment, and a copy of this chapter shall be served

1 on the dealer or lessor-retailer by personal service or certified mail,  
2 return receipt requested, at the department's mailing address of  
3 record for that licensee.

4 12208. If the recovery corporation pays the claim, the amount  
5 of the payment shall be the total of the amount of the eligible claim,  
6 but in no event may the payment exceed thirty-five thousand dollars  
7 (\$35,000) for a transaction.

8 12209. If the recovery corporation denies the claim, the  
9 recovery corporation shall notify the applicant in writing of the  
10 denial, the legal and factual bases for the denial, and the applicant's  
11 right to contest the denial in writing within 60 days or any longer  
12 period permitted by the recovery corporation. If the applicant does  
13 not contest the denial within 60 days or an additional period  
14 reasonably requested by the consumer, the decision shall be final.  
15 The recovery corporation shall act on the applicant's objection  
16 within 30 days. If the claim is denied in whole or in part, the  
17 applicant may seek review in the superior court. Review shall be  
18 limited to the written record before the recovery corporation and  
19 any relevant evidence that could not have been previously presented  
20 to the recovery corporation despite the applicant's reasonable  
21 diligence. The superior court shall affirm the decision of the  
22 recovery corporation if it is supported by substantial evidence.

23 12210. If the recovery corporation pays an eligible claim, all  
24 of the following apply:

25 (a) Immediately upon payment, the recovery corporation shall  
26 be subrogated to all of the consumer's rights against the dealer or  
27 lessor-retailer to the extent of the amount of the payment. The  
28 recovery corporation shall seek to recover the claim amount from  
29 the dealer's bond required by Section 11710.

30 (b) The recovery corporation may bring an action to recover  
31 the amount of the payment plus interest at the rate of 10 percent  
32 per annum and shall be entitled to recover costs and reasonable  
33 attorney's fees.

34 (c) The department may suspend the license of the dealer or  
35 lessor-retailer who is the subject of the claim. A dealer or  
36 lessor-retailer's license shall not be reinstated until the dealer or  
37 lessor-retailer has repaid the full amount paid on the claim, plus  
38 interest at the rate of 10 percent per annum. The dealer or  
39 lessor-retailer's discharge in bankruptcy shall not relieve the dealer  
40 or lessor-retailer from licensure discipline imposed pursuant to

1 this subdivision except to the extent, if any, mandated by  
2 bankruptcy law.

3 *12211. Nothing in this chapter is intended to limit or restrict*  
4 *actions, remedies, penalties, or procedures otherwise available*  
5 *pursuant to any other provision of law.*

6 SEC. 6. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.