

AMENDED IN SENATE AUGUST 21, 2012
AMENDED IN ASSEMBLY APRIL 24, 2012
AMENDED IN ASSEMBLY APRIL 10, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012
AMENDED IN ASSEMBLY MARCH 19, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1877

Introduced by Assembly Members Ma and Olsen

February 22, 2012

An act to amend, repeal, and add Section 7500.3 of the Business and Professions Code, relating to repossessionors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1877, as amended, Ma. Repossession agencies: exemptions.

Existing law, the Collateral Recovery Act, provides for the licensure and regulation of repossession agencies by the Bureau of Security and Investigative Services under the supervision and control of the Director of Consumer Affairs. *A violation of the act is a misdemeanor.* The act provides that a repossession agency does not include the legal owner of collateral that is subject to a security agreement or a bona fide employee of the legal owner of collateral that is subject to a security agreement.

This bill would, until January 1, 2018, add that a repossession agency does not include a dealer regularly engaged in the sale of specified collateral that is subject to a specified security agreement, and that dealer's bona fide employees, *provided that specified requirements are*

met. The bill would also prohibit, until January 1, 2018, the dealer, its bona fide employees, and other specified entities from instructing, coercing, or attempting to coerce another person to violate laws, regulations, and rules regarding the recovery of collateral, as specified. Because a violation of this prohibition would be 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: ~~no~~-yes.

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

1 SECTION 1. Section 7500.3 of the Business and Professions
2 Code is amended to read:
3 7500.3. (a) A repossession agency shall not include any of
4 the following:
5 (a)
6 (1) Any bank subject to the jurisdiction of the Commissioner
7 of Financial Institutions of the State of California under Division
8 1 (commencing with Section 99) of the Financial Code or the
9 Comptroller of the Currency of the United States.
10 (b)
11 (2) Any person organized, chartered, or holding a license or
12 authorization certificate to make loans pursuant to the laws of this
13 state or the United States who is subject to supervision by any
14 official or agency of this state or the United States.
15 (c)
16 (3) An attorney at law in performing his or her duties as an
17 attorney at law.
18 (d)
19 (4) The legal owner of collateral that is subject to a security
20 agreement; a dealer, including its bona fide employees, regularly
21 engaged in the sale of collateral designed primarily for agricultural
22 use, as defined in subdivision (b) of Section 51201 of the
23 Government Code, for use in the care of lawns and gardens, or for

1 use as special construction equipment, as defined in subdivision
2 (b) of Section 565 of the Vehicle Code, or for use in the production,
3 generation, storage, or transmission of mechanical or electric
4 energy, that is subject to a security agreement of the manufacturer
5 or an affiliate of that manufacturer; or a bona fide employee
6 employed exclusively and regularly by the legal owner of collateral
7 that is subject to a security agreement. With regard to collateral
8 subject to registration under the Vehicle Code, the legal owner
9 shall be the legal owner listed on the records of the Department
10 of Motor Vehicles or the seller or lessor named on a valid
11 conditional sales contract or rental or lease agreement if the seller
12 or lessor is a licensed vehicle dealer as defined in Section 285 of
13 the Vehicle Code.

14 (e)

15 (5) An officer or employee of the United States of America, or
16 of this state or a political subdivision thereof, while the officer or
17 employee is engaged in the performance of his or her official
18 duties.

19 (f)

20 (6) A qualified certificate holder or a registrant when performing
21 services for, or on behalf of, a licensee.

22 (7) *A dealer, including its bona fide employees, regularly*
23 *engaged in the sale of collateral designed primarily for agricultural*
24 *use, as defined in subdivision (b) of Section 51201 of the*
25 *Government Code, for use in the care of lawns and gardens, or*
26 *for use as special construction equipment, as defined in subdivision*
27 *(b) of Section 565 of the Vehicle Code, or for use in the production,*
28 *generation, storage, or transmission of mechanical or electric*
29 *energy, that is subject to a security agreement of the manufacturer*
30 *or an affiliate of that manufacturer, provided the following*
31 *requirements are met:*

32 (A) *The dealer or the secured party maintains adequate records*
33 *of all repossessions.*

34 (B) *The dealer or the secured party completes a collateral*
35 *condition report.*

36 (C) *The dealer or the secured party records any odometer or*
37 *hour meter readings.*

38 (D) *The dealer or the secured party creates records of all*
39 *transactions pertaining to the sale of the collateral, including, but*
40 *not limited to, bids solicited and received, cash received,*

1 remittances to the seller, and allocation of any moneys not so
 2 remitted to appropriate ledger accounts.

3 (E) The dealer removes and stores any personal effects that
 4 were taken with the collateral for a minimum of 60 days in a secure
 5 manner, completes an inventory of the personal effects, and notes
 6 the date that inventory is taken.

7 (F) If personal effects that were taken with the collateral are to
 8 be released to someone other than the debtor, the dealer shall
 9 request written authorization to do so from the debtor. The dealer
 10 may dispose of personal effects after storing them for at least 60
 11 days pursuant to subparagraph (E).

12 (b) Entities described in paragraph (7) of subdivision (a), or a
 13 debtor, lienholder, lessor or lessee, or an agent thereof shall not
 14 by any means, directly or indirectly, expressed or implied, instruct,
 15 coerce, or attempt to coerce another person to violate any law,
 16 regulation, or rule regarding the recovery of collateral, including,
 17 but not limited to, the provisions of this chapter or Section 9609
 18 of the Commercial Code.

19 ~~(g)~~

20 (c) This section shall remain in effect only until January 1, 2018,
 21 and as of that date is repealed, unless a later enacted statute, that
 22 is enacted before January 1, 2018, deletes or extends that date.

23 SEC. 2. Section 7500.3 is added to the Business and Professions
 24 Code, to read:

25 7500.3. A repossession agency shall not include any of the
 26 following:

27 (a) Any bank subject to the jurisdiction of the Commissioner
 28 of Financial Institutions of the State of California under Division
 29 1 (commencing with Section 99) of the Financial Code or the
 30 Comptroller of the Currency of the United States.

31 (b) Any person organized, chartered, or holding a license or
 32 authorization certificate to make loans pursuant to the laws of this
 33 state or the United States who is subject to supervision by any
 34 official or agency of this state or the United States.

35 (c) An attorney at law in performing his or her duties as an
 36 attorney at law.

37 (d) The legal owner of collateral that is subject to a security
 38 agreement or a bona fide employee employed exclusively and
 39 regularly by the legal owner of collateral that is subject to a security
 40 agreement. With regard to collateral subject to registration under

1 the Vehicle Code, the legal owner shall be the legal owner listed
2 on the records of the Department of Motor Vehicles or the seller
3 or lessor named on a valid conditional sales contract or rental or
4 lease agreement if the seller or lessor is a licensed vehicle dealer
5 as defined in Section 285 of the Vehicle Code.

6 (e) An officer or employee of the United States of America, or
7 of this state or a political subdivision thereof, while the officer or
8 employee is engaged in the performance of his or her official
9 duties.

10 (f) A qualified certificate holder or a registrant when performing
11 services for, or on behalf of, a licensee.

12 (g) This section shall become operative on January 1, 2018.

13 *SEC. 3. No reimbursement is required by this act pursuant to*
14 *Section 6 of Article XIII B of the California Constitution because*
15 *the only costs that may be incurred by a local agency or school*
16 *district will be incurred because this act creates a new crime or*
17 *infraction, eliminates a crime or infraction, or changes the penalty*
18 *for a crime or infraction, within the meaning of Section 17556 of*
19 *the Government Code, or changes the definition of a crime within*
20 *the meaning of Section 6 of Article XIII B of the California*
21 *Constitution.*