

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013—14 REGULAR SESSION

ASSEMBLY BILL

No. 791

Introduced by Assembly Member Hagman

February 21, 2013

An act to amend ~~Section~~ Sections 7506.5, 7507.4, and 7508.2 of, and to add Sections 7508.7 and 7508.8 to, the Business and Professions Code, relating to reposseors.

LEGISLATIVE COUNSEL'S DIGEST

AB 791, as amended, Hagman. Collateral recovery: reposseors.

~~Existing~~

(1) *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. Existing law requires an applicant for a qualification certificate or for an initial registration or a reregistration to submit an application to the bureau and include certain personal information in the application that is confidential and is prohibited from being disclosed to the public, *except for the registrant's full name, the licensee's name and address, and the registration number.*

~~This bill would make a technical, nonsubstantive change to these provisions.~~

This bill would delete those exceptions from the requirement that the information in the application be confidential. The bill would also prohibit a repossession agency from disclosing to the public the residence address, residence telephone number, cellular telephone number, driver's license number, or location of any licensee, registrant, employee, or independent contractor.

(2) Existing law allows a licensed repossession agency or its registrants to make demand for payment in lieu of repossession.

This bill would prohibit a licensed repossession agency or its registrants from making a demand for payment in lieu of repossession, and would also prohibit a repossession agency from selling collateral recovered under the provisions of the act. The bill would make conforming changes.

The bill would also require that any badge or cap insignia worn by a person affiliated with a repossession agency bear on its face a substantial part of the repossession agency name, the license number issued by the Director of Consumer Affairs to that agency, and notification that the person is from a licensed repossession agency. The bill would allow the director to assess a fine of \$25 per violation of these provisions.

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

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

1 SECTION 1. Section 7506.5 of the Business and Professions
2 Code is amended to read:

3 7506.5. All information obtained on the application shall be
4 confidential pursuant to the Information Practices Act (Chapter 1
5 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
6 3 of the Civil Code) ~~and shall not be released to the public except~~
7 ~~for the registrant's full name, the licensee's name and address, and~~
8 ~~the registration number.~~ The application shall be verified and shall
9 include the following:

10 (a) The full name, residence address, residence telephone
11 number, date and place of birth, and driver's license number of
12 the applicant or registrant.

13 (b) A statement listing any and all names used by the applicant
14 or registrant, other than the name by which he or she is currently
15 known. If the applicant or registrant has never used a name other
16 than his or her true name, this fact shall be set forth in the
17 statement.

18 (c) The name and address of the licensee and the date the
19 employment or contract commenced.

20 (d) The title of the position occupied by the applicant or
21 registrant and a description of his or her duties.

1 (e) Two recent photographs of the applicant or registrant, of a
2 type prescribed by the chief, and two classifiable sets of his or her
3 fingerprints, one set of which shall be forwarded to the Federal
4 Bureau of Investigation for purposes of a background check.

5 (f) The bureau may impose a fee not to exceed three dollars
6 (\$3) for processing classifiable fingerprint cards submitted by
7 applicants, excluding those submitted into an electronic fingerprint
8 system using electronic fingerprint technology.

9 *SEC. 2. Section 7507.4 of the Business and Professions Code*
10 *is amended to read:*

11 7507.4. A licensed repossession agency or its registrants ~~may~~
12 ~~shall not~~ make demand for payment in lieu of repossession, ~~if the~~
13 ~~demand is made pursuant to an assignment for repossession and~~
14 ~~shall not sell collateral recovered under the provisions of this~~
15 ~~chapter.~~

16 ~~In making demand upon a debtor for a money payment in lieu~~
17 ~~of repossession, the reposessor shall present the demand in~~
18 ~~compliance with the Rosenthal Fair Debt Collection Act (Title~~
19 ~~1.6C (commencing with Section 1788) of Part 4 of Division 3 of~~
20 ~~the Civil Code), setting forth in the demand only the amount that~~
21 ~~was specified by the creditor in the repossession referral and the~~
22 ~~fees that are properly chargeable. Itemized receipts shall be~~
23 ~~furnished the debtor at the time payment is received. Payments~~
24 ~~received shall forthwith be transmitted to the creditor, disclosing~~
25 ~~the full amount of money received from the debtor in addition to~~
26 ~~the contract payments.~~

27 *SEC. 3. Section 7508.2 of the Business and Professions Code*
28 *is amended to read:*

29 7508.2. The director may assess administrative fines for any
30 of the following prohibited acts:

31 (a) Recovering collateral or making any money demand in lieu
32 thereof, including, but not limited to, collateral registered under
33 the Vehicle Code, that has been sold under a security agreement
34 before a signed or telegraphic authorization has been received from
35 the legal owner, debtor, lienholder, lessor, or repossession agency
36 acting on behalf of the legal owner, debtor, lienholder, or lessor
37 of the collateral. A telephonic assignment is acceptable if the legal
38 owner, debtor, lienholder, lessor, or repossession agency acting
39 on behalf of the legal owner, debtor, lienholder, or lessor is known
40 to the licensee and a written authorization from the legal owner,

1 debtor, lienholder, lessor, or repossession agency acting on behalf
2 of the legal owner, debtor, lienholder, or lessor is received by the
3 licensee within 10 working days or a request by the licensee for a
4 written authorization from the legal owner, debtor, lienholder,
5 lessor, or repossession agency acting on behalf of the legal owner,
6 debtor, lienholder, or lessor is made in writing within 10 working
7 days. Referrals of assignments from one licensee to another
8 licensee are acceptable. The referral of an assignment shall be
9 made under the same terms and conditions as in the original
10 assignment. The fine shall be twenty-five dollars (\$25) for each
11 of the first five violations and one hundred dollars (\$100) for each
12 violation thereafter, per audit.

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

24 ~~(e) Selling collateral recovered under the provisions of this~~
25 ~~chapter, except with written authorization from the legal owner or~~
26 ~~mortgagee thereof. The fine shall be one hundred dollars (\$100)~~
27 ~~for the first violation and five hundred dollars (\$500) for each~~
28 ~~violation thereafter, per audit.~~

29 ~~(d) Failing to remit all money due clients within 10 working~~
30 ~~days after finalization of the sale of collateral. The licensee shall~~
31 ~~deposit all money received in the form of cash or negotiable~~
32 ~~instruments made payable to the licensee for money due clients~~
33 ~~from the sale of collateral that has been repossessed in a trust~~
34 ~~account within five working days, and the money shall be~~
35 ~~withdrawn only for remittance to the client and for the payment~~
36 ~~of amounts due the licensee. The fine shall be two hundred fifty~~
37 ~~dollars (\$250) for the first violation and one thousand dollars~~
38 ~~(\$1,000) for each violation thereafter. For purposes of this~~
39 ~~subdivision, "finalization of sale" means the time when the~~
40 ~~documents of title or ownership which permit transfer of title from~~

1 the legal owner to the purchaser are received by the repossession
2 agency.

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

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

17 ~~(g)~~

18 (c) Unlawfully entering any private building or secured area
19 without the consent of the owner, or of the person in legal
20 possession thereof, at the time of repossession. The fine shall be
21 five hundred dollars (\$500) for each violation.

22 ~~(h)~~

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

25 ~~(i)~~

26 (e) Falsification or alteration of an inventory. The fine shall be
27 twenty-five dollars (\$25) for each violation.

28 ~~(j)~~

29 (f) Soliciting from the legal owner the recovery of specific
30 collateral registered under the Vehicle Code or under the motor
31 vehicle licensing laws of other states after the collateral has been
32 seen or located on a public street or on public or private property
33 without divulging the location of the vehicle. The fine shall be one
34 hundred dollars (\$100) for the first violation and two hundred fifty
35 dollars (\$250) for each violation thereafter.

36 *SEC. 4. Section 7508.7 is added to the Business and Professions*
37 *Code, to read:*

38 *7508.7. A repossession agency shall not disclose to the public*
39 *the residence address, residence telephone number, cellular*
40 *telephone number, driver's license number, or location of any*

1 licensee, registrant, employee, or independent contractor that it
2 employs.

3 SEC. 5. Section 7508.8 is added to the Business and Professions
4 Code, to read:

5 7508.8. (a) Any badge or cap insignia worn by a person as a
6 licensee, officer, director, partner, manager, independent
7 contractor, or employee of a repossession agency shall bear on
8 its face, all of the following:

9 (1) A substantial part of the repossession agency name.

10 (2) The license number issue by the director to that agency.

11 (3) Notification that the person is from a licensed repossession
12 agency.

13 (b) The director may assess a fine of twenty-five dollars (\$25)
14 per violation of subdivision (a).

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17 CORRECTIONS:

18 Heading—Line 1.

19