

AMENDED IN ASSEMBLY APRIL 29, 2013

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 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 repossessors.

LEGISLATIVE COUNSEL'S DIGEST

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

(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 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, *without a court order*, the residence address, residence telephone number, cellular telephone number, driver's license number, ~~or work schedule, past, present, or future~~ location, *or any other personal information* 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~~ *allow a person affiliated with a repossession agency to wear a badge, cap insignia, or jacket label if it bears* on its face a substantial part of the repossession ~~agency~~ *agency's* name, the license number issued by the Director of Consumer Affairs to that *individual or* agency, and ~~notification that the person is from a licensed repossession agency a word referring to the individual as a reposessor.~~ The bill would ~~allow~~ *authorize* 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). ~~Code~~. The application shall be verified and
7 shall include the following:
8 (a) The full name, residence address, residence telephone
9 number, date and place of birth, and driver's license number of
10 the applicant or registrant.
11 (b) A statement listing any and all names used by the applicant
12 or registrant, other than the name by which he or she is currently
13 known. If the applicant or registrant has never used a name other
14 than his or her true name, this fact shall be set forth in the
15 statement.
16 (c) The name and address of the licensee and the date the
17 employment or contract commenced.
18 (d) The title of the position occupied by the applicant or
19 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 shall
12 not make demand for payment in lieu of repossession and shall
13 not sell collateral recovered under ~~the provisions of~~ this chapter.

14 SEC. 3. Section 7508.2 of the Business and Professions Code
15 is amended to read:

16 7508.2. The director may assess administrative fines for any
17 of the following prohibited acts:

18 (a) Recovering collateral or making any money demand in lieu
19 thereof, including, but not limited to, collateral registered under
20 the Vehicle Code, that has been sold under a security agreement
21 before a signed or telegraphic authorization has been received from
22 the legal owner, debtor, lienholder, lessor, or repossession agency
23 acting on behalf of the legal owner, debtor, lienholder, or lessor
24 of the collateral. A telephonic assignment is acceptable if the legal
25 owner, debtor, lienholder, lessor, or repossession agency acting
26 on behalf of the legal owner, debtor, lienholder, or lessor is known
27 to the licensee and a written authorization from the legal owner,
28 debtor, lienholder, lessor, or repossession agency acting on behalf
29 of the legal owner, debtor, lienholder, or lessor is received by the
30 licensee within 10 working days or a request by the licensee for a
31 written authorization from the legal owner, debtor, lienholder,
32 lessor, or repossession agency acting on behalf of the legal owner,
33 debtor, lienholder, or lessor is made in writing within 10 working
34 days. Referrals of assignments from one licensee to another
35 licensee are acceptable. The referral of an assignment shall be
36 made under the same terms and conditions as in the original
37 assignment. The fine shall be twenty-five dollars (\$25) for each
38 of the first five violations and one hundred dollars (\$100) for each
39 violation thereafter, per audit.

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

12 (c) *Selling collateral recovered under this chapter. The fine*
 13 *shall be one hundred dollars (\$100) for the first violation and five*
 14 *hundred dollars (\$500) for each violation thereafter, per audit.*

15 (e)

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

20 (d)

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

23 (e)

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

26 (f)

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

34 SEC. 4. Section 7508.7 is added to the Business and Professions
 35 Code, to read:

36 7508.7. A repossession agency shall not disclose to the public,
 37 *without a court order*, the residence address, residence telephone
 38 number, cellular telephone number, driver's license number, *work*
 39 *schedule, past, present, or future location, or any other personal*

1 *information* of any licensee, registrant, employee, or independent
2 contractor that it employs.

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

5 7508.8. (a) ~~Any~~ *A badge or, cap insignia, or jacket label may*
6 *be worn by a person as a licensee, officer, director, partner,*
7 *manager, independent contractor, or employee of a repossession*
8 ~~agency~~ *agency. If a badge, cap insignia, or jacket label is worn,*
9 *it shall bear on its face; all of the following:*

10 (1) A substantial part of the repossession ~~agency~~ *agency's name.*

11 (2) The license number ~~issue~~ *issued* by the director to that
12 *individual or agency.*

13 ~~(3) Notification that the person is from a licensed repossession~~
14 ~~agency.~~

15 ~~(3) A word referring to the individual as a reposessor.~~

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