

AMENDED IN SENATE FEBRUARY 24, 1997

**SENATE BILL**

**No. 117**

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**Introduced by Senator Kelley**

January 7, 1997

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An act to amend Sections 7504.7, 7507.10, ~~7508.2~~ 7507.13, and 7511 of, to add Section 7506.15 to, and to add Article 9.5 (commencing with Section 7509) to Chapter 11 of Division 3 of, the Business and Professions Code, relating to collateral recovery.

LEGISLATIVE COUNSEL'S DIGEST

SB 117, as amended, Kelley. Collateral recovery: continuing education.

(1) The Collateral Recovery Law, which governs persons engaged in repossession of collateral, requires licensing of persons or entities engaged in repossession, and certification of persons who are in active control of businesses engaged in repossession.

This bill would require qualified certificate holders and registrants to meet continuing education requirements as a condition for certificate or registration renewal. The bill would require the Chief of the Bureau of Security and Investigative Services to certify one or more statewide not-for-profit professional organizations of licensed repossession agencies to provide continuing education programs for qualified certificate holders and registrants. The organizations providing continuing education programs must cover specified subjects in the offered courses and meet tuition requirements.

(2) The Collateral Recovery Law ~~permits the Director of Consumer Affairs to assess administrative fines against qualified certificate holders or registrants that engage in certain prohibited practices.~~

~~This bill would prohibit accepting or offering to accept an assignment to recover collateral on a contingent fee basis, and would impose a fine provides that it is unlawful for a person or financial institution to knowingly engage a nonexempt unlicensed person to repossess collateral on his, her, or its behalf. However, a legal owner, debtor, lienholder, lessor, or lessee is not guilty of a violation of this prohibition if, at the time of the assignment, the party making the assignment has a copy of the reposessor's valid license, and does not have knowledge of a suspension or revocation of the license.~~

~~This bill would require, in order to fall within the above exemption, that the party making the assignment also have a copy of a valid repossession agency's qualified manager's certificate.~~

The bill would also make conforming changes.

(3) Because a violation of these provisions is a misdemeanor, the bill imposes a state-mandated local program by creating a new crime.

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. The Legislature finds that, in view of the  
2 complexity of collateral recovery laws, the need to foster  
3 public safety and the importance of ensuring a high level  
4 of protection for debtors and creditors, it is essential for  
5 qualified certificate holders and registrants to  
6 demonstrate successful completion of approved  
7 continuing education courses in collateral recovery as a



1 condition of renewal of their certificates and  
2 registrations.

3 SEC. 2. Section 7504.7 of the Business and Professions  
4 Code is amended to read:

5 7504.7. (a) Every qualification certificate issued  
6 under this chapter is subject to the same renewal  
7 provisions that apply to a repossession agency license as  
8 set forth in Sections 7503.10, 7503.11, 7503.12, 7503.13, and  
9 7503.14.

10 (b) Commencing July 1, 1998, every qualified  
11 certificate holder, as a condition of renewal of his or her  
12 certificate, shall demonstrate to the bureau completion of  
13 not less than six hours of approved continuing education  
14 pursuant to Article 9.5 (commencing with Section 7509)  
15 during the prior 12 months.

16 SEC. 3. Section 7506.15 is added to the Business and  
17 Professions Code, to read:

18 7506.15. Commencing July 1, 1998, every registrant, as  
19 a condition of renewal of his or her registration, shall  
20 demonstrate to the bureau completion of not less than six  
21 hours of approved continuing education pursuant to  
22 Article 9.5 (commencing with Section 7509) during the  
23 prior 12 months.

24 SEC. 4. Section 7507.10 of the Business and  
25 Professions Code is amended to read:

26 7507.10. Each licensee shall serve a debtor with a  
27 notice of seizure as soon as possible after the recovery of  
28 collateral and not later than 48 hours, except that if the  
29 48-hour period encompasses a Saturday, Sunday, or postal  
30 holiday, the notice of seizure shall be provided not later  
31 than 72 hours or, if the 48-hour period encompasses a  
32 Saturday or Sunday and a postal holiday, the notice of  
33 seizure shall be provided not later than 96 hours, after the  
34 repossession of collateral. The notice shall include all of  
35 the following:

36 (a) The name, address, and telephone number of the  
37 representative of the legal owner to be contacted  
38 regarding the repossession.



1 (b) The name, address, and telephone number of the  
2 representative of the repossession agency to be contacted  
3 regarding the repossession.

4 (c) A statement printed on the notice containing the  
5 following: “Repossessioners are regulated by the Bureau of  
6 Security and Investigative Services, Department of  
7 Consumer Affairs, Sacramento, CA 95814. Repossessioners  
8 are required to provide you, not later than 48 hours after  
9 the recovery of collateral, with an inventory of personal  
10 effects or other personal property recovered during  
11 repossession unless the 48-hour period encompasses a  
12 Saturday, Sunday, or a postal holiday, then the inventory  
13 shall be provided no later than 96 hours after the recovery  
14 of collateral.”

15 (d) A disclosure that “Damage to a vehicle during or  
16 subsequent to a repossession and only while the vehicle  
17 is in possession of the repossession agency and which is  
18 caused by the repossession agency is the liability of the  
19 repossession agency. A mechanical or tire failure shall not  
20 be the responsibility of the repossession agency unless the  
21 failure is due to the negligence of the repossession  
22 agency.”

23 (e) If applicable, a disclosure that environmental,  
24 Olympic, special interest, or other license plates issued  
25 pursuant to Article 8 (commencing with Section 5000),  
26 Article 8.4 (commencing with Section 5060), or Article 8.5  
27 (commencing with Section 5100) of Chapter 1 of Division  
28 3 of the Vehicle Code that remain the personal effects of  
29 the debtor will be removed from the collateral and  
30 inventoried, and that if the plates are not claimed by the  
31 debtor within 60 days, they will be destroyed.

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

35 ~~SEC. 5. Section 7508.2 of the Business and Professions~~  
36 ~~Code is amended to read:~~

37 ~~7508.2. The director may assess administrative fines~~  
38 ~~for any of the following prohibited acts:~~

39 ~~(a) Recovering collateral or making any money~~  
40 ~~demand in lieu thereof, including, but not limited to;~~



1 collateral registered under the Vehicle Code, which has  
2 been sold under a security agreement before a signed or  
3 telegraphic authorization has been received from the  
4 legal owner, debtor, lienholder, lessor, or repossession  
5 agency acting on behalf of the legal owner, debtor,  
6 lienholder, or lessor of the collateral. A telephonic  
7 assignment is acceptable if the legal owner, debtor,  
8 lienholder, lessor, or repossession agency acting on behalf  
9 of the legal owner, debtor, lienholder, or lessor is known  
10 to the licensee and a written authorization from the legal  
11 owner, debtor, lienholder, lessor, or repossession agency  
12 acting on behalf of the legal owner, debtor, lienholder, or  
13 lessor is received by the licensee within 10 working days  
14 or a request by the licensee for a written authorization  
15 from the legal owner, debtor, lienholder, lessor, or  
16 repossession agency acting on behalf of the legal owner,  
17 debtor, lienholder, or lessor is made in writing within 10  
18 working days. Referrals of assignments from one licensee  
19 to another licensee are acceptable. The referral of an  
20 assignment shall be made under the same terms and  
21 conditions as in the original assignment. The fine shall be  
22 twenty five dollars (\$25) for each of the first five  
23 violations and one hundred dollars (\$100) for each  
24 violation thereafter, per audit.

25 (b) Using collateral or personal effects, which have  
26 been recovered, for the personal benefit of a licensee, or  
27 officer, partner, manager, registrant, or employee of a  
28 licensee. The fine shall be twenty-five dollars (\$25) for  
29 the first violation and one hundred dollars (\$100) for each  
30 violation thereafter. This subdivision does not apply to  
31 personal effects disposed of pursuant to subdivision (c) of  
32 Section 7507.9.

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

39 (d) Failing to remit all money due clients within 10  
40 working days after finalization of the sale of collateral.



1 The licensee shall deposit all money received in the form  
2 of cash or negotiable instruments made payable to the  
3 licensee for money due clients from the sale of collateral  
4 which has been repossessed in a trust account within five  
5 working days, and the money shall be withdrawn only for  
6 remittance to the client and for the payment of amounts  
7 due the licensee. The fine shall be two hundred fifty  
8 dollars (\$250) for the first violation and one thousand  
9 dollars (\$1,000) for each violation thereafter. For  
10 purposes of this subdivision, “finalization of sale” means  
11 the time when the documents of title or ownership that  
12 permit transfer of title from the legal owner to the  
13 purchaser are received by the repossession agency.

14 (c) Failing to remit moneys collected in lieu of  
15 repossession or redemption to a client within 10 working  
16 days after receipt of the moneys. The fine shall be two  
17 hundred fifty dollars (\$250) for the first violation and one  
18 thousand dollars (\$1,000) for each violation thereafter.

19 (f) Failing to deliver to a client any negotiable  
20 instrument received by the licensee made payable to the  
21 client within 10 working days of receipt of the negotiable  
22 instrument. No licensee, manager, registrant, or  
23 employee of a licensee shall accept a negotiable  
24 instrument made payable to a client unless they have  
25 authorization from the client to accept such a negotiable  
26 instrument. The fine shall be two hundred fifty dollars  
27 (\$250) for the first violation and one thousand dollars  
28 (\$1,000) for each violation thereafter.

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

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

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

39 (j) Soliciting from the legal owner the recovery of  
40 specific collateral registered under the Vehicle Code or



1 ~~under the motor vehicle licensing laws of other states~~  
2 ~~after the collateral has been seen or located on a public~~  
3 ~~street or on public or private property without divulging~~  
4 ~~the location of the vehicle. The fine shall be one hundred~~  
5 ~~dollars (\$100) for the first violation and two hundred fifty~~  
6 ~~dollars (\$250) for each violation thereafter.~~

7 ~~(k) Accepting, or offering to accept, an assignment to~~  
8 ~~recover collateral in which the fee payable for~~  
9 ~~repossession services is contingent upon the recovery of~~  
10 ~~the collateral. The fine is one hundred dollars (\$100) for~~  
11 ~~the first violation and five hundred dollars (\$500) for each~~  
12 ~~subsequent violation.~~

13 *SEC. 5. Section 7507.13 of the Business and*  
14 *Professions Code is amended to read:*

15 7507.13. (a) A licensed repossession agency is not  
16 liable for the act or omission of a legal owner, debtor,  
17 lienholder, lessor, or lessee in making an assignment to it  
18 or for accepting an assignment from any legal owner,  
19 debtor, lienholder, lessor, or lessee and is entitled to  
20 indemnity from the legal owner, debtor, lienholder,  
21 lessor, or lessee for any loss, damage, cost, or expense,  
22 including court costs and attorney's fees, that it may  
23 reasonably incur as a result thereof. Nothing in this  
24 subdivision limits the liability of any person for his or her  
25 tortious conduct.

26 (b) The legal owner, debtor, lienholder, lessor, or  
27 lessee is not liable for any act or omission by a licensed  
28 repossession agency in carrying out an assignment and is  
29 entitled to indemnity from the repossession agency for  
30 any loss, damage, cost, or expense, including court costs  
31 and attorney's fees, that the legal owner, debtor,  
32 lienholder, lessor, or lessee may reasonably incur as a  
33 result thereof. Nothing in this subdivision limits the  
34 liability of any person for his or her tortious conduct.

35 (c) The legal owner, debtor, lienholder, lessor, or  
36 lessee is not guilty of a violation of Section 7502.1 or 7502.2  
37 if, at the time of the assignment, the party making the  
38 assignment has in its possession a copy of the reposessor's  
39 current, unexpired repossession agency license, *and a*  
40 *copy of the current, unexpired repossession agency's*



1 *qualified manager's certificate*, and does not have actual  
2 knowledge of any order of suspension or revocation of the  
3 license *or certificate*.

4 (d) Neither a licensed repossession agency nor a legal  
5 owner, debtor, lienholder, lessor or lessee may, by any  
6 means, direct or indirect, express or implied, instruct or  
7 attempt to coerce the other to violate any law, regulation,  
8 or rule regarding the recovery of any collateral,  
9 including, but not limited to, the provisions of this chapter  
10 or Section 9503 of the Commercial Code.

11 SEC. 6. Article 9.5 (commencing with Section 7509)  
12 is added to Chapter 11 of Division 3 of the Business and  
13 Professions Code, to read:

14

15 Article 9.5. Continuing Education

16

17 7509. (a) Biennially, after payment of the fee  
18 specified in Section 7511 and approval of the application,  
19 the chief shall certify one or more statewide not-for-profit  
20 professional organizations of licensed repossession  
21 agencies to provide continuing education programs for  
22 qualified certificate holders and registrants.

23 (b) An applicant for certification as an approved  
24 continuing education provider shall demonstrate to the  
25 satisfaction of the chief that it is reputable and its  
26 educational curriculum satisfies the objectives of this  
27 article.

28 (c) An education program presented by an approved  
29 provider shall cover subjects pertinent to the duties and  
30 responsibilities of qualified certificate holders and  
31 registrants, including, but not limited to, all laws and  
32 regulations related thereto, the rights of debtors and  
33 creditors, collateral recovery procedures, business  
34 practices, and workplace safety and ethics.

35 (d) An education program may be presented live or in  
36 a recorded format. The program shall include a written  
37 examination that the examinee must pass to receive  
38 credit.

39 (e) The chief, after notice and proceedings pursuant  
40 to Chapter 5 (commencing with Section 11500) of Part 1



1 of Division 3 of Title 2 of the Government Code, may  
2 disapprove or revoke the approval of any continuing  
3 education provider that is not qualified or whose courses  
4 do not meet the requirements of this section.

5 (f) The chief may adopt reasonable rules and  
6 regulations necessary, advisable, and convenient for the  
7 administration and enforcement of this article.

8 7509.1. Approved providers of continuing education  
9 shall offer courses to all attendees at the same tuition. This  
10 section does not prevent a provider from crediting a  
11 portion of an attendee's tuition toward membership dues  
12 in any association.

13 7509.2. A person who falsely represents to the bureau  
14 that he or she has complied with the continuing education  
15 provisions of this article, is subject to the penalties  
16 provided in Section 7510.1.

17 SEC. 7. Section 7511 of the Business and Professions  
18 Code is amended to read:

19 7511. The fees prescribed by this chapter are as  
20 follows:

21 (a) The application fee for an original repossession  
22 agency license is seven hundred fifty dollars (\$750).

23 (b) The application fee for an original qualification  
24 certificate is two hundred fifty dollars (\$250).

25 (c) The renewal fee for a repossession agency license  
26 is four hundred fifty dollars (\$450) annually.

27 (d) The renewal fee for a license as a qualified  
28 certificate holder is two hundred dollars (\$200) annually.

29 (e) Notwithstanding Section 163.5, the reinstatement  
30 fee for a repossession agency license required pursuant to  
31 Sections 7503.11 and 7505.3 is the amount equal to the  
32 renewal fee plus a penalty of 50 percent.

33 (f) Notwithstanding Section 163.5, the reinstatement  
34 fee for a license as a qualified certificate holder required  
35 pursuant to Sections 7504.7 and 7503.11 is the amount  
36 equal to the renewal fee plus a penalty of 50 percent.

37 (g) The fee for reexamination of an applicant or the  
38 applicant's qualified certificate holder is ten dollars (\$10).

39 (h) An initial registrant registration fee is fifty-five  
40 dollars (\$55), a registrant reregistration fee is thirty



1 dollars (\$30), and a registrant annual renewal fee is thirty  
2 dollars (\$30) per registration. Notwithstanding Section  
3 163.5 and this subdivision, the reregistration fee for a  
4 repossessor employee whose registration expired more  
5 than one year prior to the filing of the application for  
6 reregistration shall be fifty-five dollars (\$55).

7 (i) The fingerprint processing fee is that amount  
8 charged the bureau by the Department of Justice.

9 (j) The director shall furnish one copy of any issue or  
10 edition of the licensing law and rules and regulations to  
11 any applicant or licensee without charge. The director  
12 shall charge and collect a fee of three dollars (\$3) plus  
13 sales tax for each additional copy which may be furnished  
14 on request to any applicant or licensee, and for each copy  
15 furnished on request to any other person.

16 (k) The processing fee for the assignment of a  
17 repossession agency license pursuant to Section 7503.9 is  
18 one hundred twenty-five dollars (\$125).

19 (l) The biennial processing fee for an application as an  
20 approved continuing education provider pursuant to  
21 Section 7509 is two hundred dollars (\$200).

22 All fees, except any sales tax, received pursuant to this  
23 chapter shall be deposited in the Private Security  
24 Services Fund.

25 This section shall become operative January 1, 1998.

26 SEC. 8. No reimbursement is required by this act  
27 pursuant to Section 6 of Article XIII B of the California  
28 Constitution because the only costs that may be incurred  
29 by a local agency or school district will be incurred  
30 because this act creates a new crime or infraction,  
31 eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section  
33 17556 of the Government Code, or changes the definition  
34 of a crime within the meaning of Section 6 of Article  
35 XIII B of the California Constitution.

36 Notwithstanding Section 17580 of the Government  
37 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act  
2 takes effect pursuant to the California Constitution.

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