

AMENDED IN SENATE APRIL 3, 1997

AMENDED IN SENATE FEBRUARY 24, 1997

**SENATE BILL**

**No. 117**

---

---

**Introduced by Senator Kelley**

January 7, 1997

---

---

An act to amend Sections 7504.7, 7506.9, 7506.10, 7507.10, 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 7511~~ 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. *An unlicensed or uncertified person may work with a temporary registration or renewal registration for no more than 90 days.*

*This bill would extend this period to 150 days.*

(2) *Under existing law, a registration under the Collateral Recovery Law expires one year following its issuance or assigned renewal date.*

*This bill would provide that an initial registration expires one year from the date of issuance, and a renewal registration expires 2 years from the date of renewal unless renewed.*

~~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)~~

(3) The Collateral Recovery Law 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~~ *know* 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.

(4) The bill would also make *related and* conforming changes.

~~(3)~~

(5) Because a violation of ~~these provisions~~ *the Collateral Recovery Law* 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~~  
8 ~~condition of renewal of their certificates and~~  
9 ~~registrations.~~

10    ~~SEC. 2.~~

11     ~~SECTION 1. Section 7504.7 of the Business and~~  
12 ~~Professions Code is amended to read:~~

13     ~~7504.7. (a) Every qualification certificate issued~~  
14 ~~Except as provided in this section, every qualification~~  
15 ~~certificate issued or renewed under this chapter on or~~  
16 ~~after January 1, 1998, is subject to the same renewal~~  
17 ~~provisions that apply to a repossession agency license as~~  
18 ~~set forth in Sections 7503.10, 7503.11, 7503.12, 7503.13, and~~  
19 ~~7503.14.~~

20     ~~(b) Commencing July 1, 1998, every qualified~~  
21 ~~certificate holder, as a condition of renewal of his or her~~  
22 ~~certificate, shall demonstrate to the bureau completion of~~  
23 ~~not less than six hours of approved continuing education~~  
24 ~~pursuant to Article 9.5 (commencing with Section 7509)~~  
25 ~~during the prior 12 months.~~

26     ~~SEC. 3. Section 7506.15 is added to the Business and~~  
27 ~~Professions Code, to read:~~

28     ~~7506.15. Commencing July 1, 1998, every registrant, as~~  
29 ~~a condition of renewal of his or her registration, shall~~  
30 ~~demonstrate to the bureau completion of not less than six~~  
31 ~~hours of approved continuing education pursuant to~~  
32 ~~Article 9.5 (commencing with Section 7509) during the~~  
33 ~~prior 12 months.~~

34     ~~(b) An initial qualification certificate shall expire one~~  
35 ~~year following the date of issuance, unless renewed as~~  
36 ~~provided in this chapter.~~



1 (c) A renewal qualification certificate shall expire two  
2 years following the date of renewal, unless renewed as  
3 provided in this chapter.

4 SEC. 2. Section 7506.9 of the Business and Professions  
5 Code is amended to read:

6 7506.9. (a) Upon the issuance of the initial  
7 registration, reregistration or renewal, the chief shall  
8 issue to the registrant a suitable pocket identification  
9 card. At the request of the registrant, the identification  
10 card may include a photograph of the registrant. The  
11 photograph shall be of a size prescribed by the bureau.  
12 The card shall contain the name of the licensee with  
13 whom the registrant is employed.

14 (b) Until the registration certificate is issued or  
15 denied, a person may be assigned to work with a  
16 temporary registration on a secure form prescribed by  
17 the chief, and issued by the qualified certificate holder,  
18 that has been embossed by the bureau with the state seal  
19 for a period not to exceed ~~90~~ 150 days from the date  
20 employment commenced; provided the person signs a  
21 declaration under penalty of perjury that he or she has  
22 not been convicted of a felony or committed any other act  
23 constituting grounds for denial of a registration pursuant  
24 to Section 7506.8 (unless he or she declares that the  
25 conviction of a felony or the commission of a specified act  
26 or acts occurred prior to the issuance of a registration by  
27 the chief and such conduct was not the cause of any  
28 subsequent suspension or termination of a registration),  
29 and that he or she has read and understands the  
30 provisions of this chapter.

31 (c) The chief shall issue an additional temporary  
32 registration for not less than 60 days nor more than 120  
33 days, if the chief determines that the investigation of the  
34 applicant will take longer to complete than the initial  
35 temporary registration time period.

36 (d) No person shall perform the duties of a registrant  
37 for a licensee unless the person has in his or her possession  
38 a valid repossessor registration card or evidence of a valid  
39 temporary registration or registration renewal as



1 described in subdivision (b) of this section or subdivision  
2 (c) of Section 7506.10.

3 *SEC. 3. Section 7506.10 of the Business and*  
4 *Professions Code is amended to read:*

5 7506.10. (a) Every ~~registration that expires on or~~  
6 ~~after January 1, 1985, shall be placed on a cyclical renewal~~  
7 ~~and shall expire one year following the date of issuance or~~  
8 ~~assigned renewal date. In order to implement cyclical~~  
9 ~~renewal, the population of registrants shall be divided~~  
10 ~~into 12 equal groups, the licenses of those in each group~~  
11 ~~to expire on the last day of each successive month.~~

12 Notwithstanding any other provision of law, the bureau  
13 has authority to extend or shorten the first term of  
14 licensure following January 1, 1985, and to prorate the  
15 required license fee in order to implement this cyclical  
16 renewal.

17 (b) All registrations issued on or before the effective  
18 date of this section shall expire on December 31, 1984, and  
19 every year thereafter, unless renewed as provided in this  
20 section, except for those registrations issued on or after  
21 January 1, 1984, which shall expire on December 31, 1985;  
22 and every year thereafter *initial registration shall expire*  
23 *one year following the date of issuance, unless renewed*  
24 *as provided in this section. A renewal registration shall*  
25 *expire two years following the date of renewal, unless*  
26 renewed as provided in this section.

27 ~~(c)~~

28 (b) At least 60 days prior to the expiration, the bureau  
29 shall mail a renewal form to the registrant at the licensee's  
30 place of business. A registrant who desires to renew his or  
31 her registration shall forward to the bureau for each  
32 registration the properly completed renewal form  
33 obtained from the bureau, with the renewal fee  
34 prescribed by this chapter, for renewal of his or her  
35 registration. Until the registration renewal certificate is  
36 issued, a registrant may continue to work with a  
37 temporary registration renewal certificate on a secure  
38 form prescribed by the chief and issued by the qualified  
39 certificate holder that has been embossed by the bureau



1 with the state seal for a period not to exceed ~~90~~ 150 days  
2 from the date of expiration of the registration.

3 ~~(d)~~

4 (c) A licensee shall provide to his or her registrants  
5 information regarding procedures for renewal of  
6 registration.

7 ~~(e)~~

8 (d) A registration that is not renewed within 60 days  
9 after its expiration may not be renewed. If the  
10 registration is renewed within 60 days after its expiration,  
11 the registrant, as a condition precedent to renewal, shall  
12 pay the renewal fee and also pay the delinquency fee  
13 prescribed in this chapter. Registrants working with  
14 expired registrations shall pay all accrued fees and  
15 penalties prior to renewal or reregistration.

16 ~~(f)~~

17 (e) The delinquency fee is 50 percent of the renewal  
18 fee in effect on the date of expiration, but not less than  
19 twenty-five dollars (\$25).

20 ~~(g)~~

21 (f) Upon renewal, evidence of renewal, as the director  
22 may prescribe, shall be issued to the registrant. If  
23 evidence of renewal has not been delivered to the  
24 registrant prior to the date of expiration, the registrant  
25 may present evidence of renewal to substantiate  
26 continued registration for a period not to exceed 60 days  
27 after the date of expiration or a temporary registration  
28 renewal certificate as described in subdivision (c).

29 ~~(h)~~

30 (g) A registration shall not be renewed until any and  
31 all fines assessed pursuant to this chapter and not resolved  
32 in accordance with this chapter have been paid.

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

35 7507.10. Each licensee shall serve a debtor with a  
36 notice of seizure as soon as possible after the recovery of  
37 collateral and not later than 48 hours, except that if the  
38 48-hour period encompasses a Saturday, Sunday, or postal  
39 holiday, the notice of seizure shall be provided not later  
40 than 72 hours or, if the 48-hour period encompasses a



1 Saturday or Sunday and a postal holiday, the notice of  
2 seizure shall be provided not later than 96 hours, after the  
3 repossession of collateral. The notice shall include all of  
4 the following:

5 (a) The name, address, and telephone number of the  
6 representative of the legal owner to be contacted  
7 regarding the repossession.

8 (b) The name, address, and telephone number of the  
9 representative of the repossession agency to be contacted  
10 regarding the repossession.

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

22 (d) A disclosure that “Damage to a vehicle during or  
23 subsequent to a repossession and only while the vehicle  
24 is in possession of the repossession agency and which is  
25 caused by the repossession agency is the liability of the  
26 repossession agency. A mechanical or tire failure shall not  
27 be the responsibility of the repossession agency unless the  
28 failure is due to the negligence of the repossession  
29 agency.”

30 (e) If applicable, a disclosure that environmental,  
31 Olympic, special interest, or other license plates issued  
32 pursuant to Article 8 (commencing with Section 5000),  
33 Article 8.4 (commencing with Section 5060), or Article 8.5  
34 (commencing with Section 5100) of Chapter 1 of Division  
35 3 of the Vehicle Code that remain the personal effects of  
36 the debtor will be removed from the collateral and  
37 inventoried, and that if the plates are not claimed by the  
38 debtor within 60 days, they will be destroyed.



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

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

6 7507.13. (a) A licensed repossession agency is not  
7 liable for the act or omission of a legal owner, debtor,  
8 lienholder, lessor, or lessee in making an assignment to it  
9 or for accepting an assignment from any legal owner,  
10 debtor, lienholder, lessor, or lessee and is entitled to  
11 indemnity from the legal owner, debtor, lienholder,  
12 lessor, or lessee for any loss, damage, cost, or expense,  
13 including court costs and attorney's fees, that it may  
14 reasonably incur as a result thereof. Nothing in this  
15 subdivision limits the liability of any person for his or her  
16 tortious conduct.

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

26 (c) The legal owner, debtor, lienholder, lessor, or  
27 lessee is not guilty of a violation of Section 7502.1 or 7502.2  
28 if, at the time of the assignment, the party making the  
29 assignment has in its possession a copy of the reposessor's  
30 current, unexpired repossession agency license, and a  
31 copy of the current, unexpired repossession agency's  
32 qualified manager's certificate, and does not have actual  
33 knowledge of any order of suspension or revocation of the  
34 license or certificate.

35 (d) Neither a licensed repossession agency nor a legal  
36 owner, debtor, lienholder, lessor or lessee may, by any  
37 means, direct or indirect, express or implied, instruct or  
38 attempt to coerce the other to violate any law, regulation,  
39 or rule regarding the recovery of any collateral,



1 including, but not limited to, the provisions of this chapter  
2 or Section 9503 of the Commercial Code.

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

6

7

~~Article 9.5. Continuing Education~~

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

~~7509. (a) Biennially, after payment of the fee  
specified in Section 7511 and approval of the application,  
the chief shall 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.~~

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

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

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

~~(e) The chief, after notice and proceedings pursuant  
to Chapter 5 (commencing with Section 11500) of Part 1  
of Division 3 of Title 2 of the Government Code, may  
disapprove or revoke the approval of any continuing  
education provider that is not qualified or whose courses  
do not meet the requirements of this section.~~

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



1 ~~7509.1. Approved providers of continuing education~~  
2 ~~shall offer courses to all attendees at the same tuition. This~~  
3 ~~section does not prevent a provider from crediting a~~  
4 ~~portion of an attendee's tuition toward membership dues~~  
5 ~~in any association.~~

6 ~~7509.2. A person who falsely represents to the bureau~~  
7 ~~that he or she has complied with the continuing education~~  
8 ~~provisions of this article, is subject to the penalties~~  
9 ~~provided in Section 7510.1.~~

10 ~~SEC. 7.~~

11 ~~SEC. 6.~~ Section 7511 of the Business and Professions  
12 Code is amended to read:

13 7511. The fees prescribed by this chapter are as  
14 follows:

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

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

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

21 (d) The renewal fee for a license as a qualified  
22 certificate holder is ~~two hundred dollars (\$200) annually~~  
23 *four hundred dollars (\$400) biennially.*

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

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

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

34 (h) An initial registrant registration fee is fifty-five  
35 dollars (\$55), a registrant reregistration fee is thirty  
36 dollars (\$30), and a registrant ~~annual renewal fee is thirty~~  
37 ~~dollars (\$30)~~ *biennial renewal fee is sixty dollars (\$60)* per  
38 registration. Notwithstanding Section 163.5 and this  
39 subdivision, the reregistration fee for a reposessor  
40 employee whose registration expired more than one year



1 prior to the filing of the application for reregistration shall  
2 be fifty-five dollars (\$55).

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

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

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

15 ~~(l) The biennial processing fee for an application as an~~  
16 ~~approved continuing education provider pursuant to~~  
17 ~~Section 7509 is two hundred dollars (\$200).~~

18 All fees, except any sales tax, received pursuant to this  
19 chapter shall be deposited in the Private Security  
20 Services Fund.

21 This section shall become operative January 1, 1998.

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

32 Notwithstanding Section 17580 of the Government  
33 Code, unless otherwise specified, the provisions of this act  
34 shall become operative on the same date that the act  
35 takes effect pursuant to the California Constitution.

