

AMENDED IN SENATE APRIL 22, 1997
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 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~~ 120 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.

(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. 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 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.

(5) Because a violation of the Collateral Recovery Law is a misdemeanor, the bill ~~imposes~~ *would impose* 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. Section 7504.7 of the Business and
2 Professions Code is amended to read:
3 7504.7. (a) Except as provided in this section, every
4 qualification certificate issued or renewed under this
5 chapter on or after January 1, 1998, is subject to the same
6 renewal provisions that apply to a repossession agency
7 license as set forth in Sections 7503.10, 7503.11, 7503.12,
8 7503.13, and 7503.14.
9 (b) An initial qualification certificate shall expire one
10 year following the date of issuance, unless renewed as
11 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—~~150~~ 120 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~~ *the* 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 reposessor 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 initial registration shall expire one
6 year following the date of issuance, unless renewed as
7 provided in this section. A renewal registration shall
8 expire two years following the date of renewal, unless
9 renewed as provided in this section.

10 (b) At least 60 days prior to the expiration, the bureau
11 shall mail a renewal form to the registrant at the licensee's
12 place of business. A registrant who desires to renew his or
13 her registration shall forward to the bureau for each
14 registration the properly completed renewal form
15 obtained from the bureau, with the renewal fee
16 prescribed by this chapter, for renewal of his or her
17 registration. Until the registration renewal certificate is
18 issued, a registrant may continue to work with a
19 temporary registration renewal certificate on a secure
20 form prescribed by the chief and issued by the qualified
21 certificate holder that has been embossed by the bureau
22 with the state seal for a period not to exceed ~~150~~ 120 days
23 from the date of expiration of the registration.

24 (c) A licensee shall provide to his or her registrants
25 information regarding procedures for renewal of
26 registration.

27 (d) A registration that is not renewed within 60 days
28 after its expiration may not be renewed. If the
29 registration is renewed within 60 days after its expiration,
30 the registrant, as a condition precedent to renewal, shall
31 pay the renewal fee and also pay the delinquency fee
32 prescribed in this chapter. Registrants working with
33 expired registrations shall pay all accrued fees and
34 penalties prior to renewal or reregistration.

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

38 (f) Upon renewal, evidence of renewal, as the director
39 may prescribe, shall be issued to the registrant. If
40 evidence of renewal has not been delivered to the



1 registrant prior to the date of expiration, the registrant
2 may present evidence of renewal to substantiate
3 continued registration for a period not to exceed 60 days
4 after the date of expiration or a temporary registration
5 renewal certificate as described in subdivision (c).

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

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

11 7507.10. Each licensee shall serve a debtor with a
12 notice of seizure as soon as possible after the recovery of
13 collateral and not later than 48 hours, except that if the
14 48-hour period encompasses a Saturday, Sunday, or postal
15 holiday, the notice of seizure shall be provided not later
16 than 72 hours or, if the 48-hour period encompasses a
17 Saturday or Sunday and a postal holiday, the notice of
18 seizure shall be provided not later than 96 hours, after the
19 repossession of collateral. The notice shall include all of
20 the following:

21 (a) The name, address, and telephone number of the
22 representative of the legal owner to be contacted
23 regarding the repossession.

24 (b) The name, address, and telephone number of the
25 representative of the repossession agency to be contacted
26 regarding the repossession.

27 (c) A statement printed on the notice containing the
28 following: “Repossessors are regulated by the Bureau of
29 Security and Investigative Services, Department of
30 Consumer Affairs, Sacramento, CA 95814. Repossessors
31 are required to provide you, not later than 48 hours after
32 the recovery of collateral, with an inventory of personal
33 effects or other personal property recovered during
34 repossession unless the 48-hour period encompasses a
35 Saturday, Sunday, or a postal holiday, then the inventory
36 shall be provided no later than 96 hours after the recovery
37 of collateral.”

38 (d) A disclosure that “Damage to a vehicle during or
39 subsequent to a repossession and only while the vehicle
40 is in possession of the repossession agency and which is



1 caused by the repossession agency is the liability of the
2 repossession agency. A mechanical or tire failure shall not
3 be the responsibility of the repossession agency unless the
4 failure is due to the negligence of the repossession
5 agency.”

6 (e) If applicable, a disclosure that environmental,
7 Olympic, special interest, or other license plates issued
8 pursuant to Article 8 (commencing with Section 5000),
9 Article 8.4 (commencing with Section 5060), or Article 8.5
10 (commencing with Section 5100) of Chapter 1 of Division
11 3 of the Vehicle Code that remain the personal effects of
12 the debtor will be removed from the collateral and
13 inventoried, and that if the plates are not claimed by the
14 debtor within 60 days, they will be destroyed.

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

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

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

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



1 (c) The legal owner, debtor, lienholder, lessor, or
2 lessee is not guilty of a violation of Section 7502.1 or 7502.2
3 if, at the time of the assignment, the party making the
4 assignment has in its possession a copy of the reposessor's
5 current, unexpired repossession agency license, and a
6 copy of the current, unexpired repossession agency's
7 qualified manager's certificate, and does not have actual
8 knowledge of any order of suspension or revocation of the
9 license or certificate.

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

17 SEC. 6. 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 four hundred dollars (\$400)
29 biennially.

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

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

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



1 (h) An initial registrant registration fee is fifty-five
2 dollars (\$55), a registrant reregistration fee is thirty
3 dollars (\$30), and a registrant biennial renewal fee is sixty
4 dollars (\$60) per registration. Notwithstanding Section
5 163.5 and this subdivision, the reregistration fee for a
6 repossessor employee whose registration expired more
7 than one year prior to the filing of the application for
8 reregistration shall be fifty-five dollars (\$55).

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

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

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

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

24 This section shall become operative January 1, 1998.

25 ~~SEC. 8.~~

26 *SEC. 7.* 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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