

**Assembly Bill No. 481**

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Passed the Assembly August 30, 2005

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*Chief Clerk of the Assembly*

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Passed the Senate August 25, 2005

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2005, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 7507.9 and 7507.12 of the Business and Professions Code, relating to collateral recovery.

## LEGISLATIVE COUNSEL'S DIGEST

AB 481, Calderon. Repossessors.

(1) The Collateral Recovery Act provides for the licensing and regulation of repossession agencies by the Department of Consumer Affairs. Existing law sets forth a procedure for the removal, inventory, and storage of personal effects from repossessed collateral, and authorizes the debtor to waive the preparation of the inventory or the disclosure of the contents of the inventory under certain conditions. Existing law provides that a violation of the Collateral Recovery Act is a crime.

This bill would provide that a reposessor has no obligation to determine whether an accessory, a piece of equipment, or a replacement part is a personal effect. The bill would also authorize the party in possession of the collateral at the time of repossession to waive the preparation of the inventory or the disclosure of the inventory under the same conditions as the debtor.

(2) Existing law, with respect to collateral subject to registration under the Vehicle Code, provides that a repossession occurs when the reposessor gains entry to the collateral or when the collateral becomes attached to a tow truck or vehicle.

This bill would also prohibit any person from interfering with a reposessor in the lawful performance of his or her duties by violating Section 415 of the Penal Code once the repossession is complete, thereby creating a new crime and imposing a state-mandated local program.

(3) 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.

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

SECTION 1. Section 7507.9 of the Business and Professions Code is amended to read:

7507.9. Personal effects shall be removed from the collateral. A complete and accurate inventory of the personal effects shall be made, and the personal effects shall be labeled and stored by the licensee for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the debtor or the party in possession of the collateral at the time of the repossession. A reposessor shall have no obligation to determine whether an accessory, a piece of equipment, or a replacement part is a personal effect.

(a) The date and time the inventory is made shall be indicated. The permanent records of the licensee shall indicate the name of the employee or registrant who performed the inventory.

(b) The following items of personal effects are items determined to present a danger or health hazard when recovered by the licensee and shall be disposed of in the following manner:

(1) Deadly weapons and dangerous drugs shall be turned over to any law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency.

(2) Combustibles shall be inventoried and noted as “disposed of, dangerous combustible,” and the item shall be disposed of in a reasonable and safe manner.

(3) Food and other health hazard items shall be inventoried and noted as “disposed of, health hazard,” and disposed of in a reasonable and safe manner.

(c) Personal effects may be disposed of after being held for at least 60 days. The inventory, and adequate information as to how, when, and to whom the personal effects were disposed of, shall be filed in the permanent records of the licensee.

(d) The inventory shall include the name, address, business hours, and telephone number of the repossession agency to contact for recovering the personal effects and an itemization of all personal effects removal and storage charges that will be

made by the repossession agency. The inventory shall also include the following statement: “Please be advised that the property listed on this inventory will be disposed of by the repossession agency after being held for 60 days from the date of this notice IF UNCLAIMED.”

(e) The inventory shall be provided to a debtor not later than 48 hours after the recovery of the collateral, except that if:

(1) The 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of the collateral.

(2) The 48-hour period encompasses a Saturday or Sunday and a postal holiday, the inventory shall be provided no later than 96 hours after the recovery of the collateral.

(3) Inventory resulting from repossession of a yacht, motor home, or travel trailer is such that it shall take at least four hours to inventory, then the inventory shall be provided no later than 96 hours after the recovery of the collateral. When the 96-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 120 hours after the recovery of the collateral.

(f) Environmental, Olympic, special interest, or other license plates issued pursuant to Article 8 (commencing with Section 5000), Article 8.4 (commencing with Section 5060), or Article 8.5 (commencing with Section 5100) of, Chapter 1 of Division 3 of the Vehicle Code that remain the personal effects of the debtor shall be removed from the collateral and inventoried pursuant to this section. If the plates are not claimed by the debtor within 60 days, they shall be effectively destroyed and the licensee shall, within 30 days thereafter, notify the Department of Motor Vehicles of their effective destruction on a form promulgated by the chief that has been approved as to form by the Director of the Department of Motor Vehicles.

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

(h) The debtor or the party in possession of the collateral at the time of repossession may waive the preparation and presentation of an inventory if the debtor or the party in possession of the collateral at the time of repossession redeems the personal effects or other personal property not covered by a security interest

within the time period for the notices required by this section and signs a statement that he or she has received all of the property.

(i) If personal effects or other personal property not covered by a security agreement are to be released to someone other than the debtor, the repossession agency may request written authorization to do so from either the debtor or the legal owner.

(j) The inventory shall be a confidential document. A licensee shall only disclose the contents of the inventory under the following circumstances:

(1) In response to the order of a court having jurisdiction to issue the order.

(2) In compliance with a lawful subpoena issued by a court of competent jurisdiction.

(3) When the debtor or party in possession of the collateral at the time of the repossession has consented in writing to the release and the written consent is signed and dated by the debtor or the party in possession of the collateral at the time of the repossession subsequent to the repossession and states the entity or entities to whom the contents of the inventory may be disclosed.

SEC. 2. Section 7507.12 of the Business and Professions Code is amended to read:

7507.12. With regard to collateral subject to registration under the Vehicle Code, the act of repossession is complete when the reposessor gains entry to the collateral, or when the collateral becomes connected to a tow truck or the reposessor's tow vehicle as those terms are defined in Section 615 of the Vehicle Code. No person shall interfere with a reposessor in the lawful performance of his or her duties by violating Section 415 of the Penal Code once the repossession is complete.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.





Approved \_\_\_\_\_, 2005

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*Governor*