

Assembly Bill No. 791

CHAPTER 340

An act to amend Sections 7505.2, 7506.9, 7507.4, 7507.12, and 7508.2 of, and to add Sections 7508.7 and 7508.8 to, the Business and Professions Code, relating to repossessionors.

[Approved by Governor September 24, 2013. Filed with
Secretary of State September 24, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 791, Hagman. Collateral recovery: repossessionors.

(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 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. A violation of the act is a crime.

This bill would prohibit, except as otherwise provided by law, 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, work schedule, past, present, or future location, or any other personal information of any licensee, registrant, qualified certificate holder, qualified manager, employee, or independent contractor that it employs. By creating a new crime, the bill would impose a state-mandated local program.

(2) Existing law declares that nothing in the act prohibits the using or taking of personal effects that are connected, adjoined, or affixed to the collateral through an unbroken sequence, if that use or taking is reasonably necessary to effectuate the recovery in a safe manner or to protect the collateral or personal effects.

The bill would additionally declare that the act does not prohibit the removal of a locking mechanism or security device on the collateral, before, during, or after a repossession.

(3) Existing law allows a licensed repossession agency or its registrants to make demand for payment in lieu of repossession, if the demand is made pursuant to an assignment for repossession. Existing law permits the director to assess an administrative fine for specified violations of the act.

This bill would prohibit a licensed repossession agency or its registrants from making a demand for payment in lieu of repossession. The bill would also prohibit a repossession agency from selling collateral recovered under

the provisions of the act. The bill would modify the director's authority to assess administrative fines for specified violations of the act and would increase those fines. By creating a new crime, the bill would impose a state-mandated local program. The bill would make conforming changes.

The bill would also allow a person affiliated with a repossession agency to wear an oval, shield, round, square, or non-7-point badge, cap insignia, or jacket patch if it bears on its face all or a substantial part of the repossession agency's name, the repossession agency license number issued by the Director of Consumer Affairs to that individual or agency, and the word "reposessor." The bill would require all badges, cap insignias, and jacket patches worn by a reposessor to be a standard design approved by the director and to be clearly visible. The bill would prohibit a reposessor from wearing a badge on his or her belt and from hanging a badge around his or her neck. The bill would make these provisions inapplicable to a holder of a temporary registration, as specified. The bill would authorize the director to assess a fine of \$100 for the first violation, \$175 for the second violation, and \$250 for each violation thereafter. By creating a new crime, the bill would impose a state-mandated local program.

(4) "Collateral" is defined, for purposes of the act, as any specific vehicle, trailer, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement. Existing law provides, with regard to collateral subject to registration under the Vehicle Code, that a 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.

This bill additionally would declare that repossession is complete when the reposessor moves the entire collateral present or the reposessor gains control of the collateral.

(5) 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 7505.2 of the Business and Professions Code is amended to read:

7505.2. Nothing in this chapter prohibits the using or taking of personal effects that are connected, adjoined, or affixed to the collateral through an unbroken sequence, if that use or taking is reasonably necessary to effectuate the recovery in a safe manner or to protect the collateral or personal effects. Nothing in this chapter prohibits the removal of a locking mechanism or security device on the collateral, before, during, or after a repossession. No storage fee shall be charged for the first week on any personal effects used to effectuate a recovery pursuant to this section. Any personal effects used

or taken pursuant to this section shall be processed in a reasonably expedient manner pursuant to Sections 7507.9 and 7507.10.

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

7506.9. (a) Upon the issuance of the initial registration, reregistration, or renewal, the chief shall issue to the registrant a suitable pocket identification card. At the request of the registrant, the identification card may include a photograph of the registrant. The photograph shall be of a size prescribed by the bureau. The card shall contain the name of the licensee with whom the registrant is registered. The applicant may request to be issued an enhanced pocket card that shall be composed of durable material and may incorporate technologically advanced security features. The bureau may charge a fee sufficient to reimburse the department for costs for furnishing the enhanced pocket card. The fee charged may not exceed the actual cost for system development, maintenance, and processing necessary to provide the service, and may not exceed six dollars (\$6). If the applicant does not request an enhanced card, the department shall issue a standard card at no cost to the applicant.

(b) Until the registration certificate is issued or denied, a person may be assigned to work with a temporary registration on a secure form prescribed by the chief, and issued by the qualified certificate holder, for a period not to exceed 120 days from the date the employment or contract commenced, provided the person signs a declaration under penalty of perjury that he or she has not been convicted of a felony or committed any other act constituting grounds for denial of a registration pursuant to Section 7506.8 (unless he or she declares that the conviction of a felony or the commission of a specified act or acts occurred prior to the issuance of a registration by the chief and the conduct was not the cause of any subsequent suspension or termination of a registration), and that he or she has read and understands the provisions of this chapter.

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

(d) No person shall perform the duties of a registrant for a licensee unless the person has in his or her possession a valid repossessor registration card or evidence of a valid temporary registration or registration renewal as described in subdivision (b) or (e) of this section or subdivision (c) of Section 7506.10. Every person, while engaged in any activity for which licensure is required, shall display his or her valid pocket card as provided by regulation.

(e) A person may work as a registrant pending receipt of the registration card if he or she has been approved by the bureau and carries on his or her person a hardcopy printout or electronic copy of the bureau's approval from the bureau's Internet Web site and a valid picture identification.

SEC. 3. Section 7507.4 of the Business and Professions Code is amended to read:

7507.4. A licensed repossession agency or its registrants shall not make demand for payment in lieu of repossession and shall not sell collateral recovered under this chapter.

SEC. 4. Section 7507.12 of the Business and Professions Code is amended to read:

7507.12. (a) With regard to collateral subject to registration under the Vehicle Code, a repossession is complete if any of the following occurs:

- (1) The reposessor gains entry to the collateral.
 - (2) 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.
 - (3) The reposessor moves the entire collateral present.
 - (4) The reposessor gains control of the collateral.
- (b) No person other than the legal owner may direct a reposessor to release a vehicle without legal authority to do so.

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

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

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

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

(c) Selling collateral recovered under this chapter, or making a demand for payment in lieu of repossession. The fine shall be two hundred fifty dollars (\$250) for the first violation and one thousand dollars (\$1,000) for each subsequent violation.

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

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

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

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

SEC. 6. Section 7508.7 is added to the Business and Professions Code, to read:

7508.7. Except as otherwise provided by law, a repossession agency shall not disclose to the public, without a court order, the residence address, residence telephone number, cellular telephone number, driver's license number, work schedule, past, present, or future location, or any other personal information of any licensee, registrant, qualified certificate holder, qualified manager, employee, or independent contractor that it employs.

SEC. 7. Section 7508.8 is added to the Business and Professions Code, to read:

7508.8. (a) Notwithstanding Section 7508.3, an oval, shield, round, square, or non-seven-point badge, cap insignia, or jacket patch may be worn by a licensee, officer, director, partner, manager, independent contractor, qualified certificate holder, qualified manager, or employee of a repossession agency. If a badge, cap insignia, or jacket patch is worn, it shall bear on its face all of the following:

(1) All or a substantial part of the repossession agency's name.

(2) The repossession agency license number issued by the director to that individual or agency.

(3) The word "repossessor."

(b) A repossession shall not wear a badge on his or her belt or hang a badge around his or her neck.

(c) All badges, cap insignias, and jacket patches worn by a repossession shall be a standard design approved by the director and shall be clearly visible.

(d) This section shall not apply to a holder of a temporary registration pursuant to Section 7506.9.

(e) The director may assess a fine of one hundred dollars (\$100) for the first violation, one hundred seventy-five dollars (\$175) for the second violation, and two hundred fifty dollars (\$250) for each subsequent violation.

SEC. 8. 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.