

ภาคผนวก

## California Business and Professions Code

**Section 7500** This chapter of the Business and Professions Code constitutes the chapter on reposseors. It may be cited as the "Collateral Recovery Act."

**Section 7500.1** The following terms as used in this chapter have the meaning expressed in this section:

(a) "Advertisement" means any written or printed communication, including a directory listing, except a free telephone directory listing that does not allow space for a license number.

(b) "Assignment" means a written authorization by the legal owner, lienholder, lessor or lessee, or the agent of any of them, to skip trace, locate, or repossess or to collect money payment in lieu of repossession of any collateral, including, but not limited to, collateral registered under the Vehicle Code that is subject to a security agreement that contains a repossession clause. "Assignment"

also means a written authorization by an employer to recover any collateral entrusted to an employee or former employee if the possessor is wrongfully in possession of the collateral. A photocopy of an assignment, facsimile copy of an assignment, or electronic assignment shall have the same force and effect as an original written assignment.

(c) "Bureau" means the Bureau of Security and Investigative Services.

(d) "Chief" means the Chief of the Bureau of Security and Investigative Services.

(e) "Collateral" means any specific vehicle, trailer, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement.

(f) "Combustibles" means any substance or article that is capable of undergoing combustion or catching fire, or that is flammable, if retained.

(g) "Dangerous drugs" means any controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(h) "Deadly weapon" means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or revolver, or any other firearm, any knife having a blade longer than five

inches, any razor with an unguarded blade, and any metal pipe or bar used or intended to be used as a club.

(i) "Debtor" means any person obligated under a security agreement.

(j) "Department" means the Department of Consumer Affairs.

(k) "Director" means the Director of Consumer Affairs.

(l) "Health hazard" means any personal effects which if retained would produce an unsanitary or unhealthful condition.

(m) "Legal owner" means a person holding a security interest in any collateral that is subject to a security agreement, a lien against any collateral, or an interest in any collateral that is subject to a lease agreement.

(n) "Licensee" means an individual, partnership, limited liability company, or corporation licensed under this chapter as a repossession agency.

(o) "Multiple licensee" means a repossession agency holding more than one repossession license under this chapter, with one fictitious trade style and ownership, conducting repossession business from additional licensed locations other than the location shown on the original license.

(p) "Person" includes any individual, partnership, limited liability company, or corporation.

(q) "Personal effects" means any property that is not the property of the legal owner.

(r) "Private building" means and includes any dwelling, outbuilding, or other enclosed structure.

(s) "Qualified certificate holder" or "qualified manager" is a person who possesses a valid qualification certificate in accordance with the provisions of Article 5 (commencing with Section 7504) and is in active control or management of, and who is a director of, the licensee's place of business.

(t) "Registrant" means a person registered under this chapter.

(u) "Secured area" means and includes any fenced and locked area.

(v) "Security agreement" means an obligation, pledge, mortgage, chattel mortgage, lease agreement, deposit, or lien, given by a debtor as security for payment or performance of his or her debt, by furnishing the creditor with a recourse to be used in case of failure in the

principal obligation. "Security agreement" also includes a bailment where an employer-employee relationship exists or existed between the bailor and the bailee.

(w) "Services" means any duty or labor to be rendered by one person for another.

(x) "Violent act" means any act that results in bodily harm or injury to any party involved.

(y) The amendments made to this section during the 2005-06 Regular Session shall not be deemed to exempt any person from the provisions of this chapter.

**Section 7500.2** A repossession agency means and includes any person who, for any consideration whatsoever, engages in business or accepts employment to locate or recover collateral, whether voluntarily or involuntarily, including, but not limited to, collateral registered under the provisions of the Vehicle Code which is subject to a security agreement, except for any person registered pursuant to Article 7 (commencing with Section 7506).

**Section 7500.3.** A repossession agency shall not include any of the following:

(a) Any bank subject to the jurisdiction of the Commissioner of Financial Institutions of the State of California under Division 1 (commencing with Section 99) of the Financial Code or the Comptroller of the Currency of the United States.

(b) Any person organized, chartered, or holding a license or authorization certificate to make loans pursuant to the laws of this state or the United States who is subject to supervision by any official or agency of this state or the United States.

(c) An attorney at law in performing his or her duties as an attorney at law.

(d) The legal owner of collateral that is subject to a security agreement or a bona fide employee employed exclusively and regularly by the legal owner of collateral that is subject to a security agreement. With regard to collateral subject to registration under the Vehicle Code, the legal owner shall be the legal owner listed on the records of the Department of Motor Vehicles or the seller or lessor named on a valid conditional sales contract or rental or lease agreement if the seller or lessor is a licensed vehicle dealer as defined in Section 285 of the Vehicle Code.

(e) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while the officer or employee is engaged in the performance of his or her official duties.

(f) A qualified certificate holder or a registrant when performing services for, or on behalf of, a licensee.

**Section 7501**  There is in the Department of Consumer Affairs a Bureau of Security and Investigative Services. The bureau is under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

**Section 7501.05** Protection of the public shall be the highest priority for the Bureau of Security and Investigative Services in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

**Section 7501.1**  The Governor shall appoint a chief of the bureau at a salary to be fixed in accordance with Section 12080.3 of the Government Code. The chief shall serve under the direction and supervision of the director

**Section 7501.2** Every power and duty granted to or imposed upon the director under this chapter may be delegated to the chief, except that the director may not delegate authority to adopt or otherwise act upon any proposed decision of a hearing officer after a hearing under the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The chief may delegate any power or duty granted to or imposed upon him or her under this chapter to the deputy chief, to the assistant chief, or to any inspection, investigation, or auditing personnel of the bureau.

**Section 7501.3** The director, in accordance with the State Civil Service Act, and Section 159.5, may appoint and fix the compensation of such clerical, inspection, investigation, and auditing personnel, as well as an assistant chief, as may be necessary to carry out the provisions of this chapter. Except as otherwise provided in Section 159.5, all personnel shall perform their respective duties under the supervision and direction of the chief.

**Section 7501.4**  The chief shall gather evidence of violations of this chapter and of any rule or regulation established pursuant to this chapter by persons engaged in the business of repossession who fail to obtain licenses and shall gather evidence of violations and furnish that evidence to the prosecuting officers of any county or city for the purpose of prosecuting all violations occurring within their jurisdiction.

The chief, with the approval of the director, may require the attendance of witnesses and examine under oath all persons whose testimony he or she requires, relative to the affairs of a licensee or to the subject matter of any examination, investigation, or hearing.

**Section 7501.5** It shall be the duty of the chief to initiate and conduct investigations into the business and affairs of licensees on the chief's own motion.

**Section 7501.6** The director may establish and enforce such rules and regulations as may be reasonable and necessary for the examination and licensing of applicants, for the conduct of licensees, and for the general enforcement of various provisions of this chapter in the protection of the public.

**Section 7501.7**  If, upon investigation, the director determines that a licensee, a qualified certificate holder, or a registrant is in violation of Section 7508.1, 7508.2, 7508.3, 7508.4, 7508.5, or 7508.6, the director may issue a citation to the licensee, qualified certificate holder, or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific references to the provision of law determined to have been violated, and shall be delivered by certified mail to the licensee's, qualified certificate holder's, or registrant's address of record. If the citation is issued to the qualified certificate holder or registrant, a copy of the citation shall also be sent by certified mail to the licensee's address of record. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain assessment of an administrative fine not to exceed two thousand five hundred dollars (\$2,500).

A citation or fine assessment shall inform the licensee, qualified certificate holder, or registrant that if he or she desires a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the director within 30 days of the issuance of the citation or assessment, as appropriate. Any request for reconsideration received in writing by the director within the 30 days shall stay the 30 days allowed to request a hearing while the director reconsiders the fine assessment. Upon decision, the director shall notify the licensee, qualified certificate holder, or registrant in writing whether the fine assessment has been withdrawn or the fine assessment has been reaffirmed. If the fine assessment has been reaffirmed, the director shall again inform the licensee, qualified certificate holder, or registrant in writing that he or she has 30 days to request a hearing. If a hearing is not requested pursuant to this section, payment

of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If the licensee, qualified certificate holder, or registrant neither requests a hearing nor pays the assessed fine within 30 days of the assessment, the license, qualification certificate, or registration of the person shall not be renewed pursuant to Section 7503.10 and no registration shall be issued pursuant to Article 7 (commencing with Section 7506) until the assessed fine is paid.

Administrative fines collected pursuant to this section shall be deposited in the Private Security Services Fund.

#### **Section 7501.8**

(a) When considering the denial of a license, registration, or certificate under Section 7503.5, for which application has been made under this chapter, the director, in evaluating the rehabilitation of the applicant and the applicant's present eligibility for a license, registration, or certificate, shall consider the following criteria:

(1) The nature and severity of the act or crime under consideration as grounds for denial.

(2) Evidence of any act committed subsequent to the act or crime under consideration as grounds for denial, which also could be considered as grounds for denial under Section 7503.5.

(3) The time that has elapsed since commission of the act or crime referred to in paragraph (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of a license, registration, or certificate issued under this chapter on the grounds of conviction of a crime, the director, in evaluating the rehabilitation of the person and the person's present eligibility for a license, registration, or certificate, shall consider the following criteria:

(1) Nature and severity of the act or offense.

- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act or offense.
- (4) Whether the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.
- (c) When considering a petition for reinstatement of a license, registration, or certificate, the director shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subdivision (b).

**Section 7502**  No person shall engage within this state in the activities of a repossession agency as defined in Section 7500.2 unless the person holds a valid repossession agency license or is exempt from licensure pursuant to Section 7500.2 or 7500.3.

**Section 7502.1**  (a) Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages a nonexempt unlicensed person to repossess collateral on his or her behalf is guilty of a misdemeanor, and is punishable by a fine of five thousand dollars (\$5,000), or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. In addition, any tow vehicle subject to registration under the Vehicle Code that is used to violate any provision of this chapter is subject to removal and impound pursuant to Section 22850 of the Vehicle Code.

(b) Within existing resources, the Commissioner of Financial Institutions, the Commissioner of Corporations, and the Director of Motor Vehicles may each designate employees to investigate and report on violations of this chapter by any of the licensees of their respective departments. Those employees are authorized to actively cooperate with the bureau in the investigation of those activities.

(c) A proceeding to impose the penalties specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, by the city prosecutor in any city or city and county having a

full-time city prosecutor, for the jurisdiction in which the violation occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

**Section 7502.2**

 (a) Any financial institution that knowingly engages a nonexempt unlicensed person to repossess collateral on its behalf is guilty of a misdemeanor, and is punishable by a fine of five thousand dollars (\$5,000).

(b) Within existing resources, the Commissioner of Financial Institutions and the Commissioner of Corporations may each designate employees to investigate and report on violations of this section by any of the licensees of their respective departments. Those employees are authorized to actively cooperate with the bureau in the investigation of those activities.

(c) A proceeding to impose the fine specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, by the city prosecutor in any city or city and county having a full-time city prosecutor, for the jurisdiction in which the violation occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

**Section 7502.3**  Any person who knowingly falsifies the fingerprints or photographs required by any provision of this chapter is guilty of a felony.

**Section 7502.4**  In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under this chapter has engaged or is about to engage in any act which constitutes a violation of this chapter may, upon a petition filed by the director and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with the provisions of this section.

(a) If an affidavit in support of the petition show that the licensee has engaged or is about to engage in acts or omissions constituting a violation of this chapter and if the court is satisfied that permitting the licensee to continue to engage in the business and profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the licensee from engaging in the profession for which he or she is licensed.

(b) The order may not be issued without notice to the licensee unless it appears from facts shown by the affidavit that serious injury would result to the public before the matter can be heard on notice.

(c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3(commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required.

(d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed by the director pursuant to Section 11503 of the Government Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. However, if the licensee requests a hearing on the accusation, the director shall provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date of the conclusion of the hearing, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be

dissolved by operation of law at such time the director's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

**Section 7502.5**  The provisions of this chapter do not prevent the local authorities in any city, county, or city and county, by ordinance and within the exercise of the police power of the city, county, or city and county from requiring repossession agency licensees or registrants to register their names and a file copy of their state identification cards with the city, county, or city and county. No fee may be charged nor may any application be required by the city, county, or city and county for the registration.

**Section 7502.6**

(a) The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a repossession agency without first having obtained a license pursuant to this chapter, or carries on that business after the revocation or expiration of any license or during the period of suspension of any license, may, on application of the director, or any person licensed under this act or association representing those licensees or any member of the general public, issue an injunction or other appropriate order restraining that conduct and may impose civil fines not exceeding ten thousand dollars (\$10,000).

(b) A proceeding to impose the fine specified in subdivision (a) and enjoin the unlicensed operation of a repossession agency business may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor, for the jurisdiction in which the unlicensed activity has occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Investigator Fund.

(c) The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that there shall be

no requirement to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

**Section 7503**  An application for a repossession agency license shall be made in writing to, and filed with, the bureau in the form that may be required by the director and shall be accompanied by the original license fee prescribed by this chapter. The director may require the submission of any other pertinent information, evidence, statements, or documents.

Every application for a repossession agency license shall be signed by the applicant and state, among other things that may be required, the name of the applicant and the name under which the applicant will do business, the location by number and street and city of the office of the business for which the license is sought, and the usual business hours the business will maintain. An applicant who declares as true any material matter pursuant to this section that he or she knows to be false is guilty of a misdemeanor. The residence address, residence telephone number, and driver's license number of each licensee, principal owner of each licensee, and any applicant for a license, if requested, shall be confidential pursuant to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall not be released to the public.

No license shall be issued in any fictitious name which may be confused with or which is similar to any federal, state, county, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing licensee as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

The application form shall contain a statement informing the applicant that a false or dishonest answer to a question may be grounds for denial or subsequent suspension or revocation of a repossession agency license.

#### **Section 7503.1**

 (a) Each individual applicant for examination and each manager, partner of a partnership, and officer of a corporation shall submit with the application, one personal identification form provided by the chief upon which shall appear a photograph taken within one year immediately preceding the date of the filing of the application together with two

legible sets of fingerprints, one set of which shall be forwarded to the Federal Bureau of Investigation for purposes of a background check, and a personal description of each person respectively.

(b) The bureau may impose a fee not to exceed three dollars (\$3) for processing classifiable fingerprint cards submitted by applicants, excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

**Section 7503.2**  If the applicant for license is an individual, the application shall state the full residence address of the applicant and that the applicant is to be personally and actively in charge of the business for which the license is sought, or if any other qualified certificate holder is to be actively in charge of such business, the application shall so state and set forth the name of the person. The application shall also state whether the applicant has ever used an alias. The application shall be subscribed and verified by the applicant and, if any other person is to be actively in charge of the business, the application shall also be subscribed and verified by that person.

**Section 7503.3**  If the applicants for license are copartners, the application shall state the true names and addresses of all partners and the name of the partner to be actively in charge of the business for which the license is sought. If a qualified certificate holder other than a partner is to be actively in charge of the business then the application shall state the name and address of that person. The application shall be subscribed and verified by all of the partners and, if any other person is to be actively in charge of the business, the application shall also be subscribed and verified by that person. The application shall also state whether any of the partners has ever used an alias.

**Section 7503.4**

 (a) If the applicant for a license is a corporation, the application shall state the true names and complete residence addresses of all officers. The application shall also state the name and address of the person to be actively in charge of the business for which the license is sought. The application shall be subscribed and verified by a duly authorized officer of the applicant and by the qualified certificate holder thereof. The application shall also state whether any of the officers has ever used an alias.

(b) If the applicant for a license is a limited liability company, the application shall state the true names and complete residence addresses of all owners and the name and address of the owner to be actively in charge of the business for which the license is sought. If a qualified certificate holder, other than an owner, is to be actively in charge of the business, then the application shall state the name and address of that person. The application shall be subscribed and verified by each owner and, if any other person is to be actively in charge of the business, the application shall also be subscribed and verified by that person. The application shall also state whether any of the owners has ever used an alias.

(c) Nothing in this chapter permits a domestic or foreign limited liability company to be licensed as a repossession agency.

**Section 7503.5**  If the director determines that the applicant, if an individual, or if the applicant is a person other than an individual, that its manager and any of its officers and partners have committed any of the following acts, the director may deny the license:

(a) Committed any act, which, if committed by a licensee, would be a ground for the suspension or revocation of a license under this chapter.

(b) Committed any act constituting dishonesty or fraud.

(c) Been refused a license under this chapter or had a license revoked.

(d) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been revoked.

(e) Committed, or aided and abetted the commission of, any act for which a license is required by this chapter while unlicensed.

(f) Knowingly made any false statement in his or her application.

(g) Committed any act or crime constituting grounds for denial of licensure under Section 480.

The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the director, in writing, within 30 days of the issuance of the denial.

When a hearing is held under this section, it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

**Section 7503.6** No license may be issued to any applicant pending final disposition of any disciplinary action by the director previously filed against the person or applicant or against any partner or officer.

**Section 7503.7** The form and content of the license shall be determined by the director in accordance with Section 164.

**Section 7503.8** Each repossession agency license or duplicate license, together with current renewal license, if any, shall at all times be conspicuously displayed at the place of business on record with the bureau.

**Section 7503.9**

(a) Except as provided in this section, a repossession agency license issued under this chapter is not assignable.

(b) A repossession agency may apply to the chief for consent and, upon receipt of the consent and payment of the processing fee authorized by Section 7511, may assign a license to another business entity as long as the direct and indirect owners of the assignor own all of the assignee immediately after the assignment.

**Section 7503.11** An expired license may be reinstated within one year of the date of expiration upon compliance with the provisions of this chapter, application by the licensee, and payment of any and all fines assessed pursuant to Section 7501.7 and not resolved in accordance with the provisions of that section and payment of the reinstatement fee provided by this chapter. Reinstatement of an expired license shall not prohibit the bringing of disciplinary proceedings for any act committed in violation of this chapter during the period the license is expired.

**Section 7503.12** A suspended repossession agency license is subject to expiration and shall be renewed as provided in this article, but renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

**Section 7503.13** A revoked repossession agency license is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount

equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

**Section 7503.14**  A repossession agency license which is not renewed within three years after its expiration may not be renewed, restored, reinstated, or reissued thereafter.

The holder of the repossession agency license may obtain a new license only upon compliance with all of the provisions of this chapter relating to the issuance of an original license.

#### **Section 7504**

 (a) Except as otherwise provided in this chapter, an applicant for a qualification certificate shall comply with all of the following:

(1) Be at least 18 years of age.

(2) Have been, for at least two years of lawful experience, during the five years preceding the date on which his or her application is filed, a registrant or have had two years of lawful experience in recovering collateral within this state. Lawful experience means experience in recovering collateral as a registrant pursuant to this chapter or as a salaried employee of a financial institution or vehicle dealer. Lawful experience does not include any employment performing work other than skip tracing, debt collection, or actual collateral recovery.

Two years' experience shall consist of not less than 4,000 hours of actual compensated work performed by the applicant preceding the filing of an application.

An applicant shall certify that he or she has completed the claimed hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, licensee, financial institution, or vehicle dealer, subject to independent verification by the director as he or she may determine. In the event of the inability of an applicant to supply the written certifications from the employer, licensee, financial institution or vehicle dealer, in whole or in part, applicants may offer other written certifications from other persons substantiating their experience for consideration by the director. All certifications shall include a statement that representations made are true, correct, and contain no material omissions of fact to the best knowledge and belief of the applicant or the person submitting the certification. An applicant or person submitting the certification who declares as

true any material matter pursuant to this paragraph that he or she knows to be false is guilty of a misdemeanor.

(3) Complete and forward to the bureau a qualified certificate holder application which shall be on a form prescribed by the director and signed by the applicant. An applicant who declares as true any material matter pursuant to this paragraph that he or she knows to be false is guilty of a misdemeanor. The application shall be accompanied by two recent photographs of the applicant, of a type prescribed by the director, and two classifiable sets of his or her fingerprints. The residence address, residence telephone number, and driver's license number of each qualified certificate holder or applicant for a qualification certificate, if requested, shall be confidential pursuant to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall not be released to the public.

(4) Pass the required examination.

(5) Pay the required application and examination fees to the bureau.

(b) Upon the issuance of the initial qualification certificate or renewal qualification certificate, the bureau shall issue to the certificate holder a suitable pocket identification card which includes a photograph of the certificate holder. The photograph shall be of a size prescribed by the bureau. The card shall contain the name of the licensee with whom the certificate holder is employed.

(c) The application form shall contain a statement informing the applicant that a false or dishonest answer to a question may be grounds for denial or subsequent suspension or revocation of a qualification certificate.

**Section 7504.1**  The director may refuse to issue a qualification certificate, or may suspend or revoke a previously issued qualification certificate, if the individual has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license under this chapter.

The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the director within 30 days of the issuance of the denial.

When a hearing is held under this section, it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

**Section 7504.2**  Examinations and reexaminations shall be given at least once every other month at such places and on such specific dates as the chief may from time to time determine and fix.

**Section 7504.3**  In order to be eligible for an initial examination, an applicant shall have completed and filed his or her application together with the application fee prescribed by this chapter in the office of the bureau in Sacramento, California, not later than 30 days prior to the next scheduled examination date. Applicants whose applications are not completed and filed within the time limits of this section may, at the discretion of the bureau, be scheduled for the first examination next following the scheduled examination.

**Section 7504.4**  If an applicant fails to pass an initial examination, he or she shall not be eligible for any subsequent examination except upon payment of the reexamination fee for each subsequent examination, accompanied by a completed application for reexamination filed within the time limits and conditions relating to applications for initial examinations provided in Section 7504.3.

**Section 7504.5**  All applicants shall be examined concerning their competency, experience, and qualifications by the chief and the chief may take testimony of anyone in regard thereto under oath.

**Section 7504.6**  If an applicant fails to complete his or her application within one year after it has been filed, or fails to take the examination within a one-year period after becoming eligible therefor, the application shall be considered to be abandoned. An application submitted subsequent to the abandonment of a former application shall be treated as a new application.

**Section 7504.7**

 (a) Except as provided in this section, every qualification certificate issued or renewed under this chapter on or after July 1, 1998, is subject to the same renewal provisions that apply to a repossession agency license as set forth in Sections 7503.10, 7503.11, 7503.12, 7503.13, and 7503.14.

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

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

**Section 7505**  A licensee desiring to operate a repossession business at a location other than the address shown on his or her license shall apply and qualify for a license for each additional location. A licensee desiring to operate a repossession business under one or more fictitious trade styles shall apply and qualify for a license for each fictitious trade style. No licensee shall indicate, or cause to be indicated, in any printed matter, or in any directory or listing, that he or she conducts a repossession business under any name, or at any address, other than the names and addresses for which he or she is licensed.

An application for a license for an additional location or an additional trade style shall be in the same form, and the applicant shall meet the same requirements, as for an original license.

**Section 7505.1**  Every office licensed as a repossession agency shall be under the active charge of a qualified certificate holder. Nothing in this chapter prohibits a licensee from having more than one qualified certificate holder in an office.

**Section 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. 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

**Section 7505.3**

 (a) Whenever a qualified certificate holder actively in charge of an office ceases to be in charge, the licensee shall file with the bureau notice, in writing, within 30 days from such cessation.

If the notice is filed, the license shall remain in force for a period of 90 days after the filing of the notice. At the end of the 90-day period or an additional period, not to exceed

one year, as specified by the director, if written notice is not given that a qualified person is then actively in charge of the office, the agency license shall be automatically suspended.

If the licensee shall fail to give written notice at the end of the 30-day period, the agency license shall be automatically suspended.

A license suspended under this section may be reinstated upon payment of the reinstatement fee and submission of a reinstatement application.

A person who performs any act for which a repossession agency license is required during the period of suspension is subject to the penal provisions of Article 3 (commencing with Section 7502), in addition to the provisions of Article 9 (commencing with Section 7508) and Article 10 (commencing with Section 7510).

(b) In case of the death of a person licensed as an individual, a member of the immediate family of the deceased licensee shall be entitled to continue the business under the same license for 120 days following the death of the licensee, provided that written notice is made to the bureau within 30 days following the death of the licensee. At the end of the 120-day period, the license shall be automatically canceled. If no request is received within the 30-day period, the license shall be automatically canceled at the end of that period.

(c) In the case of the death or disassociation of a partner of an entity licensed as a partnership, the licensee shall notify the bureau, in writing, within 30 days from the death or disassociation of the individual. If notice is given, the license shall remain in force for 90 days following the death or disassociation. At the end of that period, the license shall be automatically canceled. If the licensee fails to notify the bureau within the 30-day period, the license shall be automatically canceled at the end of that period.

(d) A license extended under this section is subject to all other provisions of this chapter.

**Section 7505.4**  Except as herein otherwise provided, no person shall be in charge of any licensed office if the person has ever had a license revoked or suspended or has ever been denied registration pursuant to Article 7 (commencing with Section 7506); or if the person was a partner, managing employee, or officer, of a repossession agency the license of which has been revoked for cause.

**Section 7505.5**  The person deemed to be actively in charge of an office shall be the holder of a qualification certificate and the certificate, together with the current renewal certificate, shall be prominently displayed below the repossession agency's license. The person shall be in charge of not more than two licensed locations. The person shall share equally with the licensee the responsibility for the conduct of the business and the personnel of the licensed agency or agencies, if more than one agency is licensed at that location. This section shall not apply to any licensee who notifies the bureau in writing that the licensee is not conducting any business, but wishes to maintain a current license status with the bureau. When the licensee resumes conducting business, the licensee shall so inform the bureau in writing within 30 days.

**Section 7506.3**  Except as otherwise provided in this article, every person entering the employ of, or contracting with, a licensee or multiple licensee after the effective date of this article shall immediately complete an application for an initial registration or a reregistration and file the appropriate application with the chief within 15 working days after the commencement of employment or contracted services for the licensee or multiple licensee for whom the applicant is employed or contracted. Applicants for registration must be at least 18 years of age. An applicant who declares as true any material matter pursuant to this section that he or she knows to be false is guilty of a misdemeanor.

(a) An initial registration application shall be required of those persons who have not previously submitted an application for registration, or been registered as a registrant.

(b) A reregistration application shall be required of those persons who have previously submitted or been registered as a registrant.

(c) No registrant of a multiple licensee shall be required to file more than one application for registration or reregistration for each multiple licensee.

(d) The application form shall contain a statement informing the applicant that a false or dishonest answer to a question may be grounds for denial or subsequent suspension or revocation of a registration or reregistration

**Section 7506.4**  The application for an initial registration or a reregistration under this article shall be on a form prescribed by the director and shall be accompanied by the fee provided for in Section 7511.

**Section 7506.5**  All information obtained on the application shall be confidential pursuant to the Information Practices Act (Chapter (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall not be released to the public except for the registrant's full name, the licensee's name and address, and the registration number. The application shall be verified and shall include:

(a) The full name, residence address, residence telephone number, date and place of birth, and driver's license number of the applicant or registrant.

(b) A statement listing any and all names used by the applicant or registrant, other than the name by which he or she is currently known. If the applicant or registrant has never used a name other than his or her true name, this fact shall be set forth in the statement.

(c) The name and address of the licensee and the date the employment or contract commenced.

(d) The title of the position occupied by the applicant or registrant and a description of his or her duties.

(e) Two recent photographs of the applicant or registrant, of a type prescribed by the chief, and two classifiable sets of his or her fingerprints, one set of which shall be forwarded to the Federal Bureau of Investigation for purposes of a background check.

(f) The bureau may impose a fee not to exceed three dollars (\$3) for processing classifiable fingerprint cards submitted by applicants, excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

**Section 7506.6**  Qualified certificate holders who comply with other provisions of this chapter are not required to register under this article.

**Section 7506.7**   Employees of a licensee who are engaged exclusively in stenographic, typing, filing, clerical, in-office skip tracing, or other office activities are not required to register under this article.

Section 7506.8

  (a) The director may refuse to register any applicant if the individual has failed to pay any or all fines assessed pursuant to Section 7501.7 and not resolved in accordance with that section, or has committed any act that, if committed by a licensee, would be grounds

for refusing to issue a license or for the suspension or revocation of a license under this chapter, or has committed acts or crimes constituting grounds for denial of a license under Section 480.

The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the director, in writing, within 30 days of the issuance of the denial.

When a hearing is held under this section, it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The director may suspend or revoke a registration if the registrant has committed any act that, if committed by a licensee, would be grounds for refusing to issue a license or for the suspension or revocation of a license under this chapter.

#### **Section 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, that has been embossed by the bureau with the state seal 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) 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.

#### **Section 7506.10**

 (a) Every initial registration shall expire one year following the date of issuance, unless renewed as provided in this section, except for those registrations issued on or after January 1, 1984, which shall expire on December 31, 1985, and every year thereafter, unless renewed as provided in this section. A renewal registration shall expire two years following the date of renewal, unless renewed as provided in this section.

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

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

(d) A registration that is not renewed within 60 days after its expiration may not be renewed. If the registration is renewed within 60 days after its expiration, the registrant, as a

condition precedent to renewal, shall pay the renewal fee and also pay the delinquency fee prescribed in this chapter. Registrants working with expired registrations shall pay all accrued fees and penalties prior to renewal or reregistration.

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

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

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

#### **Section 7506.11**

 (a) Each registration is valid until the registrant ceases performing services for the licensee indicated on the registration card or until the registration expires.

(b) Each person registered under this article shall notify the chief, in writing, within 30 days of any change in employment or contract status with a licensee. If the person ceases to be employed by or perform services for a licensee, the licensee shall notify the chief, in writing, within 30 days. The registered individual shall surrender his or her registration card to the licensee. The licensee shall forward the registration card to the chief. If at some subsequent time the person is again employed or retained by a licensee, he or she shall apply for reregistration in the manner provided in this article.

(c) Each registrant, while registered, shall notify the chief, in writing, within 30 days after any change in his or her residence address.

**Section 7506.12**  The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

#### **Section 7506.13**

 (a) The licensee shall at all times be responsible for ascertaining that his or her registrants are currently registered or have made proper application for registration as provided

in this article. The licensee may not have in his or her employment or under contract a person subject to registration who has not registered within the time required or whose registration has expired or been revoked, denied, suspended, or canceled.

(b) The bureau shall keep current and accurate records of all persons registered under this article.

**Section 7506.14**  If the chief determines that continued services by an applicant for registration in his or her current capacity may present undue hazard to public safety, the licensee, upon proper notification from the chief, shall suspend the applicant from rendering services in that capacity until the licensee is notified in writing by the chief within 60 days from the date of notification of suspension that the applicant's registration has been approved or denied.

**Section 7507**  A licensee shall notify the bureau within 30 days of any change of its corporate officers or of the addition of any partners. Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may suspend or revoke a license issued under this chapter if the director determines that a new officer or partner has committed any act that constitutes grounds for the denial of a license pursuant to Section 7503.5.

**Section 7507.1**  A licensee or a qualified certificate holder shall, within 30 days after such change, notify the bureau of any change of his or her address. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

**Section 7507.2**

 (a) A licensee is responsible for those actions that are performed in violation of this chapter by his or her registrants, including his or her manager, when acting within the course and scope of his or her employment or contract.

(b) Each licensee shall maintain a file or record of the name, address, commencing date of employment or retention, and position of each registrant, and the date of termination of the employment or contract when a registrant is terminated. The file and records, together with usual compensation records, shall be available for inspection by the bureau, and copies thereof,

and information pertaining thereto or contained therein, shall be submitted to the bureau upon request.

**Section 7507.3**  A repossession agency shall be required to keep and maintain adequate records of all transactions, including, but not limited to, assignment forms; vehicle report of repossession required by Section 28 of the Vehicle Code; vehicle condition reports, including odometer readings, if available; personal effects inventory; notice of seizure; and records of all transactions pertaining to the sale of collateral that has been repossessed, including, but not limited to, bids solicited and received, cash received, deposits made to the trust account, remittances to the seller, and allocation of any moneys not so remitted to appropriate ledger accounts. Records, including bank statements of the trust account, shall be retained for a period of not less than four years and shall be available for examination by the bureau upon demand. In addition, collateral and personal effects storage areas shall be made accessible for inspection by the bureau upon demand. An assignment form may be an original, a photocopy, a facsimile copy, or a copy stored in an electronic format.

**Section 7507.4**  A licensed repossession agency or its registrants may make demand for payment in lieu of repossession, if the demand is made pursuant to an assignment for repossession.

In making demand upon a debtor for a money payment in lieu of repossession, the reposessor shall present the demand in compliance with the Rosenthal Fair Debt Collection Act (Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code), setting forth in the demand only the amount that was specified by the creditor in the repossession referral and the fees that are properly chargeable. Itemized receipts shall be furnished the debtor at the time payment is received. Payments received shall forthwith be transmitted to the creditor, disclosing the full amount of money received from the debtor in addition to the contract payments.

**Section 7507.5**   No charge shall be made for services incurred in connection with the recovery, transportation, and storage of collateral except under terms agreed to by the legal owner at the time of the repossession authorization or specifically agreed upon at a subsequent time. Repair work may not be charged to the legal owner unless expressly authorized by him or her.

**Section 7507.6**

 (a) Within seven days after a violent act has occurred involving a licensee, or any officer, partner, qualified certificate holder, registrant or employee of a licensee, while acting within the course and scope of his or her employment or contract, that results in a police report or bodily harm or bodily injury, the licensee or the licensee's qualified certificate holder or registrant, shall mail or deliver to the chief a notice concerning the incident upon a form provided by the bureau.

(b) Within seven days after the occurrence of a violent act or a threatened violent act involving a licensee, or any officer, partner, qualified certificate holder, registrant, or employee of a licensee while acting within the course and scope of his or her employment or contract, that results in a police report or bodily harm or bodily injury, the licensee or the licensee's qualified certificate holder or registrant shall send by certified mail, return receipt requested, a notice containing information about the incident to the person or individual who made the assignment. If the assignor is not the legal owner, the assignor shall notify the legal owner of the contents of the notice.

(c) A licensee, qualified certificate holder, or registrant may send the notice set forth in subdivision (b) for a violent act or threatened violent act even if a police report is not made or no bodily harm or bodily injury occurs. Any notice of a threatened violent act provided pursuant to subdivision (b) may only be used to notify a subsequent assignee and not for any collateral purpose. Nothing in this subdivision or subdivision (b) shall be construed to provide immunity against any claim for defamation.

**Section 7507.7**  Within seven days after receiving a final civil court judgment filed against the licensee or any officer, partner, qualified certificate holder, or registrant of a licensee, for an amount of more than the then prevailing maximum claim that may be brought in a small claims court pertaining to an act done within the course and scope of his or her employment or contract, the licensee, or his or her qualified certificate holder, or his or her registrant, shall mail or deliver to the chief a copy of the judgment.

**Section 7507.8**  Every advertisement by a licensee, soliciting or advertising business shall contain the licensee's name, address, and license number as they appear in the records of the bureau.

**Section 7507.9**  Personal effects shall be removed from the collateral, including any personal effect that is mounted but detachable from the collateral by a release mechanism. 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. If the licensee or the licensee's agent cannot determine whether the property attached to the collateral is a personal effect or a part of the collateral, then that fact shall be noted on the inventory and the licensee or agent shall not be obligated to remove the item from the collateral, unless the item can be removed without the use of tools, in which case it shall be removed and inventoried. The licensee or the licensee's agent shall notify the debtor that if the debtor takes the position that an item is a personal effect, then the debtor shall contact the legal owner to resolve the issue.

(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 either (1) 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; or (2) be retained by the licensee indefinitely to be returned to the debtor upon request, in which case the licensee shall not charge more than 60 days' storage on the plates.

(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) With the consent of the licensee, the debtor may waive the preparation and presentation of an inventory if the debtor 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 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 the debtor.

(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 has consented in writing to the release and the written consent is signed and dated by the debtor subsequent to the repossession and states the entity or entities to whom the contents of the inventory may be disclosed.

(4) To the debtor.

**Section 7507.10**  A licensee shall serve a debtor with a notice of seizure as soon as possible after the recovery of collateral and not later than 48 hours, except that if the 48-hour period encompasses a Saturday, Sunday, or postal holiday, the notice of seizure shall be provided not later than 72 hours or, if the 48-hour period encompasses a Saturday or Sunday and a postal holiday, the notice of seizure shall be provided not later than 96 hours, after the repossession of collateral. The notice shall include all of the following:

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

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

(c) A statement printed on the notice containing the following: "Repossessioners are regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, Sacramento, CA. Repossessioners are required to provide you, not later than 48 hours after the recovery of collateral, with an inventory of personal effects or other personal property

recovered during repossession unless the 48-hour period encompasses a Saturday, Sunday, or a postal holiday, then the inventory shall be provided no later than 96 hours after the recovery of collateral."

(d) A disclosure that "Damage to a vehicle during or subsequent to a repossession and only while the vehicle is in possession of the repossession agency and which is caused by the repossession agency is the liability of the repossession agency. A mechanical, electrical, or tire failure, or the loss of, or any damage to, or as a result of, or caused by, any aftermarket parts and accessories not in compliance with Section 24008 of the Vehicle Code shall not be the responsibility of the repossession agency unless the failure, damage, or loss is due to the negligence of the repossession agency."

(e) If applicable, a disclosure that "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 will be removed from the collateral and inventoried, and that if the plates are not claimed by the debtor within 60 days, they will be destroyed."

(f) A disclosure of the charges payable by the debtor to the repossession agency for the storage of the collateral and personal effects from the date of repossession until release of the property from storage.

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.

**Section 7507.11**  Any written report to a client shall be submitted by the licensee, the qualified certificate holder, or a person authorized by one or either of them, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in the report are true and correct.

**Section 7507.12**  With regard to collateral subject to registration under the Vehicle Code, 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, as those terms are defined in Section 615 of the Vehicle Code. No person other than the legal owner may direct a reposessor to release a vehicle without legal authority to do so.

**Section 7507.13**

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

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

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

(d) Neither a licensed repossession agency nor a legal owner, debtor, lienholder, lessor or lessee, or an agent of any of them may, by any means, direct or indirect, express or implied, instruct or attempt to coerce the other to violate any law, regulation, or rule regarding the recovery of any collateral, including, but not limited to, the provisions of this chapter or Section 9609 of the Commercial Code.

**Section 7507.115**  A licensee shall not appraise the value of any collateral.

**Section 7508**  The director may assess administrative fines against any repossession agency licensee, qualified certificate holder, or registrant for any of the prohibited acts outlined in this article.

**Section 7508.1**  The director may assess administrative fines for the following prohibited acts:

(a) Knowingly making any false report to his or her employer or client for whom information was being obtained. The fine shall be one hundred dollars (\$100) for the first violation, and five hundred dollars (\$500) for each violation thereafter.

(b) Using any identification to indicate registration as a reposessor, other than the bureau-issued registration card, except an employer identification card issued by the repossession agency which has met bureau approval. A bureau-issued registration card shall be carried by those individuals specified by Section 7506.3, and shall be shown on demand to any bureau employee or law enforcement officer. The fine shall be twenty-five dollars (\$25) for each violation.

(c) Using an alias in connection with the official activities of the licensee's business. A notice of warning shall be issued for the first violation. Thereafter the fine shall be twenty-five dollars (\$25) for each violation.

(d) Appearing as an assignee party in any court proceeding involving claim and delivery, replevin, or other possessory court action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien. This section shall not prohibit a licensee from appearing as a defendant in any of the preceding actions. The fine shall be one hundred dollars (\$100) for each violation.

**Section 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 the provisions of this chapter, except with written authorization from the legal owner or mortgagee thereof. The fine shall be one hundred dollars (\$100) for the first violation and five hundred dollars (\$500) for each violation thereafter, per audit.

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

(e) Failing to remit moneys collected in lieu of repossession or redemption to a client within 10 working days after receipt of the moneys. The fine shall be two hundred fifty

dollars (\$250) for the first violation and one thousand dollars (\$1,000) for each violation thereafter.

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

(g) 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.

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

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

(j) 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.

**Section 7508.3**  A licensee, or any of his or her registrants or employees, or a qualified certificate holder, shall be prohibited from using any false or misleading representation during the course of recovery of collateral and may be issued a notice of warning for the first violation; assessed a twenty-five dollar (\$25) fine for the second violation; and assessed a one hundred dollar (\$100) fine for any subsequent violation of any of the following:

(a) The false representation or implication that the individual is vouched for, bonded by, or affiliated with the United States or with any state, county, city, or city and county, including the use of any badge, uniform, or facsimile thereof.

(b) The false representation or implication that any individual is an attorney or that any communication is from any attorney.

(c) The representation or implication by a repossession agency or its registrants or employees that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person, unless the action is lawful and the creditor has instructed the repossession agency to inform the debtor that the creditor intends to take the action.

(d) The threat to take any action that cannot legally be taken or that is not intended to be taken.

(e) The false representation or implication that the debtor committed any crime or other conduct in order to disgrace the debtor.

(f) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any state, or which creates a false impression as to its source, authorization, or approval.

(g) The false representation or implication that documents are legal process.

(h) The use of any business, company, or organization name other than the true name of the repossession agency's business, company, or organization.

(i) The use of any deceptive forms.

**Section 7508.4**  The director may assess administrative fines for any of the following prohibited acts:

(a) Conducting business from any location other than that location to which a license was issued or conducting a business as an individual, partnership, limited liability company, or corporation unless the licensee holds a valid license issued to that exact same individual, partnership, limited liability company, or corporation. The fine shall be one thousand dollars (\$1,000) for each violation.

(b) Aiding or abetting an unlicensed reposessor or assigning his or her license. "Assigning his or her license" means that no licensee shall permit a registrant, employee, or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatsoever to conduct business for which a license is required under this chapter. The fine shall be one thousand dollars (\$1,000) for each violation.

(c) Failing to register registrants within 15 days. The fine shall be two hundred fifty dollars (\$250) for each of the first two violations and one thousand dollars (\$1,000) for each violation thereafter.

(d) Employing a person whose registration has expired or been revoked, denied, suspended, or canceled, if the bureau has furnished a listing of these persons to the licensee. The fine shall be twenty-five dollars (\$25) for each violation.

(e) Failing to notify the bureau, within 30 days, of any change in officers. A notice of warning shall be issued for the first violation. Thereafter, the fine shall be twenty-five dollars (\$25) for each violation.

(f) Failing to present the debtor with an itemized receipt of payment, if payment is made in lieu of repossession. The fine shall be twenty-five dollars (\$25) for the first violation and one hundred dollars (\$100) for each violation thereafter.

(g) Failing to submit the notices regarding a violent act or threatened violent act within seven days pursuant to Section 7507.6 or to submit a copy of a judgment awarded against the licensee for an amount of more than the then prevailing maximum claim that may be brought in small claims court within seven days pursuant to Section 7507.7. The fine shall be twenty-five dollars (\$25) for the first violation and one hundred dollars (\$100) per violation thereafter.

(h) Failing to include the licensee's name, address, and license number in any advertisement. A notice of warning shall be issued for the first violation. Thereafter, the fine shall be twenty-five dollars (\$25) for each violation.

(i) Failing to maintain personal effects for at least 60 days. The fine shall be twenty-five dollars (\$25) for the first violation and one hundred dollars (\$100) for each violation thereafter.

(j) Failing to provide a personal effects list or a notice of seizure within the time limits set forth in Section 7507.9 or 7507.10. The fine shall be twenty-five dollars (\$25) for the first violation and one hundred dollars (\$100) for each violation thereafter.

(k) Failing to file the required report pursuant to Section 28 of the Vehicle Code. 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.

(l) Failing to maintain an accurate record and accounting of secure temporary registration forms. The qualified certificate holder shall be fined twenty-five dollars (\$25) for the first violation, one hundred dollars (\$100) for the second violation, two hundred fifty dollars (\$250) for the third violation, and two hundred fifty dollars (\$250) plus a one-year suspension of the privilege to issue temporary registrations pursuant to Section 7506.9 for the fourth and subsequent violations.

(m) Representing that a licensee has an office and conducts business at a specific address when that is not the case. The fine shall be five thousand dollars (\$5,000) for each violation.

(n) Notwithstanding any other provision of law, the money in the Private Security Services Fund that is attributable to administrative fines imposed pursuant to subdivision (c) shall not be continuously appropriated and shall be available for expenditure only upon appropriation by the Legislature.

**Section 7508.5**  The director may assess administrative fines against a repossession agency registrant for the following acts, in addition to fines imposed pursuant to any other section in this article. The fine shall be twenty-five dollars (\$25) for each of the following violations:

- (a) Knowingly submit a false report to his or her employer.
- (b) Submitting a report to a client without authorization by his or her employer.
- (c) Failing to carry a bureau-issued identification card and failing to show that card upon demand to a bureau employee or a law enforcement officer.
- (d) Failing to register.
- (e) Failing to return his or her registration card to the employer upon termination.
- (f) Failing to report a violent act involving the registrant to the licensee or the licensee's qualified certificate holder within 24 hours.

**Section 7508.6**  The director may assess administrative fines against any repossession agency licensee, qualified certificate holder, or registrant for failure to notify the bureau within 30 days of any change of residence or business address. The fine shall be twenty-five dollars (\$25) for each violation.

**Section 7510**  Except as otherwise required to comply with the provisions of this chapter, the proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

**Section 7510.1**  In addition to any other remedies authorized by this chapter, the director may suspend or revoke a repossession agency license, a qualification certificate, or registration issued under this chapter if the director determines that the licensee or the licensee's manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, partners, registrants, employees, or its manager, has:

(a) Made any false statement or given any false information in connection with an application for a license, qualification certificate, or registration, or a renewal or reinstatement thereof.

(b) Violated any provisions of this chapter.

(c) Violated any rule of the director adopted pursuant to authority contained in this chapter.

(d) Been convicted of a felony or any crime substantially related to the repossession agency business including illegally using, carrying, or possessing a deadly weapon.

(e) Committed or permitted any registrant or employee to commit any act while the license was expired which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license.

(f) Unlawfully committed assault, battery, or kidnapping, or used force or violence on any person.

(g) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(h) Been convicted of a violation of Section 148 of the Penal Code, resisting or obstructing a public officer.

(i) Committed any act which is a ground for denial of an application for license under this chapter.

(j) Committed any act prohibited by Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 of the Penal Code.

(k) Committed any act in the course of the licensee's business constituting dishonesty or fraud, including, but not limited to:

(1) Knowingly making a false statement relating to evidence or information obtained in the course of employment or while under contract, or knowingly publishing a slander or a libel in the course of business.

(2) Using illegal means in the collection or attempted collection of a debt or obligation.

(l) Represented that the licensee has an office and conducts business at a specific address when that is not the case.

#### **Section 7510.2**

 (a) Any licensee, or any officer, partner, registrant, employee, or manager of a licensee, who is found by the director to have committed any acts prohibited by Section 7510.1, resulting in revocation of a license, shall dispose of any financial interest in any repossession agency required to be licensed by this act within 90 days of the effective date of the revocation, or at a later date, approved in writing by the director, not to exceed 180 days.

(b) No licensee, or any officer, partner, registrant, employee, or manager of a licensee, who is found by the director to have committed any acts prohibited by Section 7510.1, shall, during the period of suspension or revocation, acquire any financial interest in any repossession agency required to be licensed by this act.

(c) The requirements and prohibitions of this section shall also apply to any immediate family member of a licensee, or officer, partner, registrant, employee, or manager of a licensee, if the family member actively participated in the management or operation of the repossession agency whose license was revoked.

(d) Any immediate family member of a licensee, or officer, partner, registrant, employee, or manager of a licensee, not subject to subdivision (c), shall dispose of all financial interest in the repossession agency of the licensee whose license was revoked, within the time period required in subdivision (a).

(e) Any financial interest transferred for the purpose of avoiding the prohibitions of this section shall be deemed a financial interest of the transferor.

(f) As used in this section, "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise.

(g) As used in this section, "immediate family" includes one's spouse, children, parents, siblings, and spouses of one's children or siblings.

**Section 7510.4**  The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The director may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

**Section 7511**  Effective July 1, 1998, the bureau shall establish and assess fees and penalties for licensure and registration as displayed in this section. The fees prescribed by this chapter are as follows:

(a) The application fee for an original repossession agency license may not exceed eight hundred twenty-five dollars (\$825).

(b) The application fee for an original qualification certificate may not exceed three hundred twenty-five dollars (\$325).

(c) The renewal fee for a repossession agency license may not exceed seven hundred fifteen dollars (\$715) biennially.

(d) The renewal fee for a license as a qualified certificate holder may not exceed four hundred fifty dollars (\$450) biennially.

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

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

(g) A fee for reexamination of an applicant for a qualified manager may not exceed thirty dollars (\$30).

(h) An initial registrant registration fee may not exceed seventy-five dollars (\$75), a registrant reregistration fee may not exceed thirty dollars (\$30), and a registrant biennial renewal fee may not exceed sixty dollars (\$60) per registration. Notwithstanding Section 163.5 and this subdivision, the reregistration fee for a registrant whose registration expired more than one year prior to the filing of the application for reregistration may not exceed seventy-five dollars (\$75).

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

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

(k) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge. The director shall charge and collect a fee not to exceed ten dollars (\$10) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

(l) The processing fee for the assignment of a repossession agency license pursuant to Section 7503.9 may not exceed one hundred twenty-five dollars (\$125).

This section shall become operative July 1, 1998, except that the changes to this section enacted during the first year of the 1999-2000 Regular Session shall become operative January 1, 2000. Notwithstanding the operative date of this section, before, on, or after July 1, 1998, the bureau may adopt regulations specifying the fees authorized by this section.