

**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Angelique Ashby, Chair
2025 - 2026 Regular

Bill No: SB 382 **Hearing Date:** April 21, 2025
Author: Strickland
Version: March 24, 2025
Urgency: No **Fiscal:** Yes
Consultant: Yeaphana La Marr

Subject: Vehicle repossession

SUMMARY: Prohibits a repossession agency from discussing, conspiring, or agreeing with a third party to charge a fee to return personal property to a consumer whose property under a security agreement has been recovered. Prohibits a repossession agency from accepting a hold harmless agreement in place of meeting inventorying and storing personal affects, as required by existing law. Specifies that licensed repossession agencies are not prohibited from filing a lien on property.

NOTE: This bill is double-referred to the Senate Committee on Judiciary, second.

Existing law:

- 1) Establishes the Collateral Recovery Act (Act) to provide for Bureau of Security and Investigative Services (BSIS or Bureau) within the Department of Consumer Affairs to regulate repossession agencies and repossessioners. (Business and Professions Code (BPC) § 7500 *et seq.*)
- 2) Defines an “Assignment” or “repossession order” as any written authorization by the legal owner, lienholder, lessor, lessee, or registered owner, or the agent of any of them, to skip trace, locate, or reposess 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. Defines “Assignment” or “repossession order” to also mean any written authorization by an employer to recover any collateral entrusted to an employee or former employee in possession of the collateral. Assigns a photocopy of an assignment or repossession order, facsimile copy of an assignment or repossession order, or electronic format of an assignment or repossession order the same force and effect as an original written assignment or repossession order. (BPC § 7500.1(b))
- 3) Defines collateral as any specific vehicle, trailer, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement. (BPC § 7500.1(e))
- 4) Defines a repossession agency as 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, with specified exclusions. (BPC § 7500.2)

- 5) Prohibits any person from engaging in the activities of a repossession agency as defined in Section 7500.2 unless the person holds a valid repossession agency license from the Bureau or is exempt from licensure pursuant to BPC § 7500.2 or 7500.3. (BPC § 7502)
- 6) Requires every person entering the employ of, or contracting with, a licensee or multiple licensees to complete an application for an initial registration or a reregistration and file the appropriate application with the Bureau 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. (BPC § 7506.3)
- 7) Provides that any person who violates any provision of the Act, 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 that person's 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. (BPC § 7502.1(a))
- 8) Requires personal effects to be removed from the collateral, including any personal effect that is mounted but detachable from the collateral by a release mechanism. Requires a complete and accurate inventory of the personal effects to be made, and the personal effects to 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. Requires the licensee or agent to note on the inventory 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 and relieves the licensee or agent from the obligation 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. Requires the licensee or the licensee's agent to 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. (BPC § 7507.9)
- 9) Requires the repossession agency to receive written authorization from the debtor to release personal effects or other personal property not covered by a security agreement to someone other than the debtor. (BPC § 7507.9(i))
- 10) Prohibits a licensee from selling personal effects or other personal property not covered by a security agreement and remitting money from the sale to a third party, including, but not limited to, any lending institution. (BPC § 7507.9(j))
- 11) Requires the inventory to be a confidential document. Allows a licensee to disclose the contents of the inventory only under the following circumstances:
 - a) In response to the order of a court having jurisdiction to issue the order;
 - b) In compliance with a lawful subpoena issued by a court of competent jurisdiction;

- c) 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; or
- d) To the debtor. (BPC § 7507.9(k))

12) Requires a licensed repossession to serve a debtor with a notice of seizure as soon as possible after the recovery of collateral and not later than 48 hours, with specified exceptions, after the repossession of collateral. Requires the notice to include specified information and disclosures including 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. (BPC § 75070.10(a)(6))

13) Prohibits a storage fee for the first week on any personal effects. (BPC § 7507.125)

14) Provides a framework for filing vehicle liens, the circumstances under which a lien may be filed, and identifies who may file a lien. (Civil Code (CIV) §§ 3067-3074)

15) Prohibits any tow yard, impounding agency, or governmental agency, or any person acting on behalf of those entities, from refusing to release a vehicle or other collateral to anyone that is legally entitled to that vehicle or other collateral, except when the vehicle is being held for evidence by law enforcement or a prosecuting attorney. (Vehicle Code (VEH) § 10856(b))

16) Defines a legal owner as a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state or is another person, not the registered owner, holding a security interest in the vehicle. (VEH § 14602.6(f)(1), VEH § 14602.7(e)(1) and VEH § 14602.8(f)(1))

17) Allows a vehicle removed and seized by a peace officer for driving a vehicle while his or her driving privilege was suspended or revoked, driving a vehicle while his or her driving privilege is restricted and the vehicle is not equipped with a functioning, certified interlock device, or driving a vehicle without ever having been issued a driver's license to be released to the legal owner of the vehicle or the legal owner's agent before the end of the impoundment period if the legal owner or the legal owner's agent provides to the law enforcement agency, impounding agency, person in possession of the vehicle, or any person acting on behalf of those agencies:

- a) A copy of the assignment, as defined in BPC § 7500.1(b);
- b) A release from the one responsible governmental agency, only if required by the agency;
- c) A government-issued photographic identification card; and
- d) One of the following as determined by the legal owner or the legal owner's agent, to show proof of legal ownership for the vehicle:

- i) A certificate of repossession for the vehicle;
- ii) A security agreement for the vehicle; or
- iii) The title. (VEH § 14602.6(f)(3)(A))

18) Prohibits a law enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, from requiring any documents other than those specified by VEH § 14602.6(f). (VEH § 14602.6(f)(3)(B))

19) Allows a vehicle removed and seized by a peace officer for evading or fleeing the police, exhibiting wanton disregard for the safety of persons or property while fleeing, causing bodily injury while fleeing, recklessly driving, racing, or engaging in exhibition of speed to be released to the legal owner of the vehicle or the legal owner's agent before the end of the impoundment period if the legal owner or the legal owner's agent presents, to the law enforcement agency, impounding agency, person in possession of the vehicle, or any person acting on behalf of those agencies:

- a) A copy of the assignment, as defined in BPC § 7500.1(b);
- b) A release from the one responsible governmental agency, only if required by the agency;
- c) A government-issued photographic identification card; and
- d) One of the following, as determined by the legal owner or the legal owner's agent to show ownership of the vehicle:
 - i) A certificate of repossession for the vehicle;
 - ii) A security agreement for the vehicle; or
 - iii) The title. (VEH § 14602.7(e)(3)(A))

20) Prohibits a law enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, from requiring any documents other than those specified by VEH § 14602.7(e). (VEH § 14602.6 (e)(3)(B))

21) Allows a vehicle removed and seized by a peace officer for driving after convicted of driving with a blood alcohol content of .05 percent or more by weight while under the age of 21, driving with a blood alcohol content of .08 percent or more, or to cause bodily injury to any person other than the driver while having a blood alcohol content of .08 percent or more, as specified, to be released to the agent of the legal owner of the vehicle or the legal owner's agent before the end of the impoundment period if the agent presents a photocopy or facsimile copy of its repossession agency license or registration issued by the Bureau. (VEH § 14602.8(f)(3)(C))

22) Prohibits a law enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, from requiring any documents other than those specified by VEH § 14602.8(f). (VEH § 14602.8(f)(3)(D))

This bill:

- 1) Prohibits a repossession from discussing, conspiring, or agreeing with a third party to set a fee, rate, or cost to consumer to retrieve their personal effects from property that was repossessed.
- 2) Prohibits a repossession from accepting a hold harmless or release of indemnification in lieu of removing, inventorying, and storing personal effects as required by the Act.
- 3) Specifies that licensed repossessioners are not prohibited from filing a lien under CC § 3067-3074.
- 4) Prohibits a law enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, who requires documents to release a vehicle to the legal owner or the legal owner's agent from requiring documents that are not specified as required by the authorizing code.
- 5) Makes various technical and style changes and replaces gendered references with gender-neutral language in each of the amended sections.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

1. **Purpose.** The California Association of Licensed Repossessors is the sponsor of this bill. The Author states, "SB 382 introduces significant clarifications to existing law concerning consumer protections within the context of vehicle repossession.

Current practices by some lenders have placed repossession agencies in a difficult position. Agencies have received notifications from lenders attempting to dictate the fees chargeable to a consumer for the inventory, storage, and safe-keeping of personal effects found within a repossessed vehicle. These notifications often imply or explicitly state that the release of such personal effects is contingent upon the consumer first addressing the deficiency balance owed on the repossessed vehicle.

Existing law clearly establishes that a consumer is entitled to the return of their personal effects without such conditions (i.e., without a quid pro quo). SB 382 aims to reinforce this principle by prohibiting agreements or practices that would allow a consumer's personal effects to be unlawfully withheld pending the consumer's compliance with lender demands regarding the underlying debt.

Furthermore, this bill addresses the issue of abandoned vehicles subsequent to repossession. It clarifies the authority of a repossession agency to place a lien on such abandoned vehicles. This clarification is intended to relieve repossession

agencies of the burden associated with the indefinite storage of abandoned repossessed vehicles on their premises.

Lastly, SB 382 incorporates existing Vehicle Code language into several other sections of the code. This addition specifies that no party may require documentation beyond that mandated by statute as a condition for releasing a repossessed vehicle to its rightful owner or authorized agent."

2. Background.

BS/S and Collateral Recovery. A repossession agency contracts with a legal owner (e.g., credit grantor of personal property) to locate and/or recover property sold under a security agreement. The most common property recovered is a motor vehicle. Each repossession agency licensee must designate a person, who is associated with the license in the Bureau's records, to serve as the qualified manager. The qualified manager is responsible for managing and directing the day-to-day activities of the licensed business, and may be the licensee, an agent of the licensee (e.g., officer of a corporation), or any other person designated by the licensee to serve in this capacity. A repossession agent is the employee of the repossession agency whose duties entail locating and recovering the property.

The Act specifies that a repossession agency must hold a repossession agency license, persons serving as the qualified manager must hold a qualified manager certificate, and employees of a repossession company who locate and repossess property must hold a repossession agent registration issued by the Bureau.

Inventory and Release of Personal Effects. When a vehicle is repossessed, existing law makes clear that personal effects are to be treated as property of the debtor and the personal effects are not considered collateral that should be collected by the repossession. For example, the Act requires the repossession to remove personal effects from the vehicle, conduct a complete and accurate inventory of the personal effects, and stored them for a minimum of 60 days in a secure manner to allow the debtor to retrieve their belongings. The Act further protects the personal belongings of the debtor by requiring the repossession agency to receive written authorization from the debtor to release personal effects to someone other than the debtor.

However, repossession report lending institutions have recently approached them to collect the vehicle with the personal effects inside before the repossession can conduct the inventory and make the personal effect available to the debtor. Additionally, lenders have proposed charging additional fees to the debtor to retrieve their personal property. This bill would prohibit a repossession from discussing, conspiring, or agreeing with a third party to charge for personal effects.

In response, the sponsors are proposing to prohibit discussing, conspiring, or agreeing with a third party to set a fee, rate, or cost for personal effects. It is not clear why this provision is necessary. Existing law prohibits a repossession from selling personal effects remitting money from the sale to a third party, including, but not limited to, any lending institution. Existing law also provides that any person who violates any provision of the Act, *or who conspires with another person to violate any provision of this chapter*, 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.

Stakeholders have expressed concern that this bill would remove the ability of a lender to negotiate any fee structure for debtor's personal effects with the repossession agency to protect their debtor from further financial burden or harm. When a lender contacts a repossession agency to discuss services and the fees associated with providing that service, the lender is looking at the financial cost to its own business, but also the financial cost to its debtors. By removing the ability of the repossession agency and the client to have a discussion on how the repossession agency will invoice services in relationship to the client's debtors, the lender would be unable to address if the repossession agency makes undo financial demands on the debtor. For example, there are instances of a repossession agency charging \$30 per bag of property per day or \$75 per bag plus \$5 per day on the higher end versus another agency charging a flat fee of \$25. Stakeholders state this proposed language will not allow a client to have an indication, or control, of whether their debtor is being treated fairly or taken advantage of by the repossession. Conversely, the sponsors contend that allowing lenders to have that control will lead to higher prices charged to debtors.

Hold Harmless Agreements and Releases of Indemnity. This bill would prohibit a repossession from accepting a hold harmless agreement or release of indemnity in lieu of removing, inventorying, and storing personal effects. While the consumer protection intent of the provision is clear, it remains unclear why this provision is necessary. Current law requires a repossession to remove, inventory, and store personal effects, not complying with these requirements are already a violation of the Act. No lending company has the authorization to render the removing, inventorying, and storing requirements through a hold harmless agreement or release of indemnification. The repossession would still be in violation and subject to Bureau enforcement. Again, existing law provides that any person who violates any provision of the Act, or who conspires with another person to violate any provision of this chapter, is guilty of a misdemeanor.

Repossession Filing Liens. Under existing law, once a vehicle has been repossessed, a repossession agency may not release the vehicle unless expressly authorized to do so by the legal owner. However, in many cases, after determining that a repossessed vehicle is not worth sending to auction, the legal owner abandons the vehicle on the repossession agency's lot, leaving repossession agencies burdened with the indefinite storage of unclaimed vehicles. Where Civil Code Section 3067-3074 establishes a process for filing liens on vehicles, some repossession agencies report being told by the Department of Motor Vehicles that they are not permitted to file such liens. This bill clarifies that the repossession agency can file a lien under the Civil Code.

Documentation Required for Vehicle Release. When a vehicle that has been assigned for repossession is towed by law enforcement for specified violations of the Vehicle Code by the driver of the vehicle, the legal owner or the owner's agent may pick up the car before the impound period has passed and without charge. For a repossession to act as the owner's agent in this case, the licensed repossession must produce specified documentation to demonstrate they are licensed by the

Bureau, the vehicle has been assigned for repossession, and documents proving ownership, among others. However, there have been instances when the tow yard, law enforcement, or state agency employee has not released a vehicle because the employee decided additional documentation is required. While existing law prescribes which documents must be presented, it does not prevent a tow yard, law enforcement, or state agency from arbitrarily requiring additional documentation to release the vehicle.

When a vehicle remains in tow, storage charges accumulate that must be paid by the debtor (consumer) in order to bring their account current in addition to payments missed that put the vehicle into repossession in the first place. This bill would prohibit law enforcement and tow companies from arbitrarily requiring documentation in excess of those already required by law to reduce barriers to retrieving the vehicle and the resulting charges that must be paid by the debtor.

3. **Related Legislation.** AB 913 (Smith, Chapter 416, Statutes of 2021) redefines specified terms in the Act, including 'deadly weapon,' 'legal owner,' and 'repossession.' Requires instruments or weapons, other than a firearm, to be inventoried and disposed of in a reasonable and safe manner and requires a repossession agency to receive written authorization from a debtor allowing a third party to take possession of their belongings.
4. **Arguments in Support.** The California Association of Licensed Repossessors, who is the sponsor of this bill, writes, "Agencies have received notifications from lenders attempting to dictate the fees chargeable to a consumer for the inventory, storage, and safe-keeping of personal effects found within a repossessed vehicle. These notifications often imply or explicitly state that the release of such personal effects is contingent upon the consumer first addressing the deficiency balance owed on the repossessed vehicle. Existing law clearly establishes that a consumer is entitled to the return of their personal effects without such conditions. SB 382 aims to reinforce this principle by prohibiting agreements or practices that would allow a consumer's personal effects to be unlawfully withheld pending the consumer's compliance with lender demands regarding the underlying debt. Furthermore, this bill addresses the issue of abandoned vehicles subsequent to repossession. It clarifies the authority of a repossession agency to place a lien on such abandoned vehicles. This clarification is intended to relieve repossession agencies of the burden associated with the indefinite storage of abandoned repossessed vehicles on their premises...As licensed reposessors, we hold our profession to the highest integrity and support the consumer protections mandated by law. We want to ensure that there are no interferences to these protections..."

SUPPORT AND OPPOSITION:

Support:

California Association of Licensed Repossessors

Opposition:

None received

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