



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1500

Introduced 2/7/2023, by Sen. Kimberly A. Lightford

SYNOPSIS AS INTRODUCED:

5 ILCS 80/4.37
5 ILCS 80/4.42 new
225 ILCS 422/5
225 ILCS 422/10
225 ILCS 422/110

Amends the Regulatory Sunset Act. Repeals the Collateral Recovery Act on January 1, 2032 (instead of January 1, 2027). Amends the Collateral Recovery Act. Makes changes to the findings and purposes provisions. Defines "hazardous material" and "personal information". Provides that the licensed repossession agency shall recycle or dispose of any personal effect that is a hazardous material in the manner required by State or federal law. Provides that if a licensed repossession agency certifies that a repossessed vehicle contains one or more hazardous materials, the legal owner shall pay the licensed repossessing agency a disposal or recycling surcharge fee. Provides that the first surcharge fee shall be \$50. Provides that on January 15, 2025 and each year thereafter, the Illinois Commerce Commission shall adjust and publish a new surcharge fee. Provides that if a licensed repossession agency has cause to believe that a vehicle that serves as collateral collects or stores personal information, then, as soon as practicable upon repossession of the vehicle and prior to the release of the vehicle from the possession of the licensed repossession agency, the licensed repossession agency shall clear, erase, delete, or otherwise eliminate the personal information collected or stored in or by the vehicle by utilizing a standardized electronic solution.

LRB103 29695 AMQ 56099 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Regulatory Sunset Act is amended by
5 changing Section 4.37 and by adding Section 4.42 as follows:

6 (5 ILCS 80/4.37)

7 Sec. 4.37. Acts and Articles repealed on January 1, 2027.

8 The following are repealed on January 1, 2027:

9 The Clinical Psychologist Licensing Act.

10 The Illinois Optometric Practice Act of 1987.

11 Articles II, III, IV, V, VI, VIIA, VIIB, VIIC, XVII, XXXI,
12 and XXXI 1/4 of the Illinois Insurance Code.

13 The Boiler and Pressure Vessel Repairer Regulation Act.

14 The Marriage and Family Therapy Licensing Act.

15 The Boxing and Full-contact Martial Arts Act.

16 The Cemetery Oversight Act.

17 The Community Association Manager Licensing and
18 Disciplinary Act.

19 The Detection of Deception Examiners Act.

20 The Home Inspector License Act.

21 The Massage Licensing Act.

22 The Medical Practice Act of 1987.

23 The Petroleum Equipment Contractors Licensing Act.

1 The Radiation Protection Act of 1990.
2 The Real Estate Appraiser Licensing Act of 2002.
3 The Registered Interior Designers Act.
4 The Landscape Architecture Registration Act.
5 The Water Well and Pump Installation Contractor's License
6 Act.
7 ~~The Collateral Recovery Act.~~
8 The Licensed Certified Professional Midwife Practice Act.
9 (Source: P.A. 102-20, eff. 6-25-21; 102-284, eff. 8-6-21;
10 102-437, eff. 8-20-21; 102-656, eff. 8-27-21; 102-683, eff.
11 10-1-22; 102-813, eff. 5-13-22.)

12 (5 ILCS 80/4.42 new)
13 Sec. 4.42. Acts repealed on January 1, 2032. The following
14 Acts are repealed on January 1, 2032:
15 The Collateral Recovery Act.

16 Section 10. The Collateral Recovery Act is amended by
17 changing Sections 5, 10, and 110 as follows:

18 (225 ILCS 422/5)
19 (Section scheduled to be repealed on January 1, 2027)
20 Sec. 5. Findings; purpose.
21 (a) The General Assembly finds: (i) due to advancements in
22 technology, personal information associated with consumers is
23 increasingly collected and stored on motor vehicles that

1 function as collateral in secured loans; (ii) the loss or
2 breach of such personal information can cause consumers
3 financial and personal harm and loss, including, but not
4 limited to, harm and loss associated with identity theft and
5 loss of privacy; (iii) when motor vehicles are repossessed, it
6 is critical that consumers be protected from such harm and
7 loss; (iv) personal property that is inside motor vehicles
8 when they are repossessed often includes hazardous materials
9 which must be properly disposed of for the sake of public
10 safety and environmental protection; and (v) ~~that~~ collateral
11 recovery practices affect public health, safety, and welfare.
12 and

13 (b) The General Assembly declares that the purpose of this
14 Act is to: (i) regulate individuals and entities engaged in
15 the business of collateral recovery for the protection of the
16 public; (ii) ensure that repossession agencies protect motor
17 vehicle collateral consumers from potential harm and loss
18 associated with personal information that is collected and
19 stored on motor vehicles; and (iii) ensure the proper
20 recycling and disposal of hazardous materials that are inside
21 repossessed motor vehicles.

22 (Source: P.A. 97-576, eff. 7-1-12.)

23 (225 ILCS 422/10)

24 (Section scheduled to be repealed on January 1, 2027)

25 Sec. 10. Definitions. In this Act:

1 "Assignment" means a written authorization by a legal
2 owner, lien holder, lessor, lessee, or licensed repossession
3 agency authorized by a legal owner, lien holder, lessor or
4 lessee to locate or repossess, involuntarily or voluntarily,
5 any collateral, including, but not limited to, collateral
6 registered under the Illinois Vehicle Code that is subject to
7 a security agreement that contains a repossession clause or is
8 the subject of a rental or lease agreement.

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

15 "Automobile rental company" means a person or entity whose
16 primary business is renting motor vehicles to the public for
17 30 days or less.

18 "Branch office" means each additional office and secured
19 storage facility location of a repossession agency (i) located
20 in and conducting business within the State of Illinois and
21 (ii) operating under the same name as the repossession agency
22 where business is actively conducted or is engaged in the
23 business authorized by the licensure. Each branch office must
24 be individually licensed.

25 "Collateral" means any vehicle, boat, recreational
26 vehicle, motor home, motorcycle, or other property that is

1 subject to a security, lease, or rental agreement.

2 "Commission" means the Illinois Commerce Commission.

3 "Debtor" means any person or entity obligated under a
4 lease, rental, or security agreement.

5 "Financial institution" means a bank, a licensee under the
6 Consumer Installment Loan Act, savings bank, savings and loan
7 association, or credit union organized and operating under the
8 laws of this or any other state or of the United States, and
9 any subsidiary or affiliate thereof.

10 "Hazardous material" means:

11 (1) material defined as (i) a hazardous material by
12 the United States Department of Transportation under Title
13 49 of the Code of Federal Regulations or (ii) hazardous
14 waste by the federal Environmental Protection Agency
15 through administrative rule; or

16 (2) batteries, motor fuel, motor oil, antifreeze,
17 prescribed or not-prescribed drugs, medical waste,
18 cleansers, insecticides, herbicides, ammunition, paint,
19 lighter fluid, light bulbs, or any other material or
20 personal effect that a licensed repossession agency
21 reasonably and in good faith would conclude to be
22 hazardous or unsafe if disposed of without safeguards.

23 "Legal owner" means a person holding (i) a security
24 interest in any collateral that is subject to a security
25 agreement, (ii) a lien against any collateral, or (iii) an
26 interest in any collateral that is subject to a lease or rental

1 agreement.

2 "Licensure" means the approval of the required criteria
3 that has been submitted for review in accordance with the
4 provisions of this Act.

5 "Licensed recovery manager" means a person who possesses a
6 valid license in accordance with the provisions of this Act
7 and is in control or management of an Illinois repossession
8 agency.

9 "Personal effects" means any property contained within or
10 on repossessed collateral, or property that is not permanently
11 affixed to the collateral, that is not the property of the
12 legal owner, including hazardous materials.

13 "Personal information" means information that is
14 associated with an owner, driver, or passenger of the
15 collateral and that is collected and stored by electronic
16 means or systems in or by the collateral during the course of
17 its use, including, but not limited to: (i) biometric
18 information, as defined by the Biometric Information Privacy
19 Act, contacts, addresses, telephone numbers, garage door
20 codes, map data, and digital subscriptions; (ii) information
21 that is deemed "sensitive personal information" by the Federal
22 Trade Commission, "personally identifiable information" under
23 federal law or the Personal Information Protection Act, or
24 "individually identifiable health information" under the
25 federal Health Insurance Portability and Accountability Act;
26 and (iii) information that a licensed repossession agency

1 reasonably believes would be deemed confidential or private by
2 the person who is associated with the information.

3 "Recovery permit" means a permit issued by the Commission
4 to a repossession agency employee who has met all the
5 requirements under this Act.

6 "Recovery ticket" means a serialized record obtained from
7 the Commission for any repossessed vehicle or collateral
8 evidencing that any person, business, financial institution,
9 automotive dealership, or repossession agency who shows a
10 recovery ticket has paid the recovery ticket fee to the
11 Commission.

12 "Remote storage location" means a secured storage facility
13 of a licensed repossession agency designated for the storage
14 of collateral that is a secure building or has a perimeter that
15 is secured with a fencing construction that makes the area not
16 accessible to the public. A remote storage location shall not
17 transact business with the public and shall provide evidence
18 of applicable insurance to the Commission that specifies the
19 licensed repossession agency as the primary policy holder. A
20 remote storage location shall be located in a commercially
21 zoned area physically located in Illinois.

22 "Repossession agency" means any person or entity
23 conducting business within the State of Illinois, that, for
24 any type of consideration, engages in the business of, accepts
25 employment to furnish, or agrees to provide or provides
26 property locating services, property recovery, recovered

1 property transportation, recovered property storage, or all
2 services relevant to any of the following:

3 (1) The location, disposition, or recovery of property
4 as authorized by the self-help provisions of the Uniform
5 Commercial Code.

6 (2) The location, disposition, or recovery of lost or
7 stolen property.

8 (3) Securing evidence concerning repossession and
9 recovery to be used before any court, board, office, or
10 investigating committee.

11 (4) Inventory of property contained in or on the
12 collateral or recovered property.

13 (5) The possession of collateral.

14 (6) The prevention of the misappropriation or
15 concealment of chattel, vehicles, goods, objects,
16 documents, or papers.

17 "Repossession agency" does not include any of the
18 following:

19 (1) An attorney at law who is performing his or her
20 duties as an attorney at law.

21 (2) The legal owner of collateral that is subject to a
22 security agreement.

23 (3) An officer or employee of the United States of
24 America or of this State or a political subdivision of
25 this State while the officer or employee is engaged in the
26 performance of his or her official duties.

1 (4) A qualified license or recovery permit holder when
2 performing services for, or on behalf of, a licensed
3 repossession agency.

4 (5) A collection agency licensed under the Collection
5 Agency Act when its activities are limited to assisting an
6 owner in the recovery of property that is not collateral,
7 as defined in this Act.

8 "Repossession agency employee" means any person or
9 self-employed independent contractor who is hired by a
10 repossession agency.

11 "Salvage auction" means a person or entity whose primary
12 business is the sale of motor vehicles for which insurance
13 companies have made payment of damages on total loss claims.

14 "Secured storage facility" means an area located on the
15 same premises as a repossession agency office or branch office
16 that is designated for the storage of collateral and is a
17 secure building or has a perimeter that is secured with a
18 fencing construction that makes the area not accessible to the
19 public. Each repossession agency office or branch office must
20 maintain a secured storage facility.

21 "Security agreement" means an obligation, pledge,
22 mortgage, chattel mortgage, lease agreement, rental agreement,
23 deposit, or lien, given by a debtor as security for payment or
24 performance of his or her debt by furnishing the creditor with
25 a recourse to be used in case of failure in the principal
26 obligation. "Security agreement" includes a bailment where an

1 employer-employee relationship exists or existed between the
2 bailor and the bailee.

3 (Source: P.A. 97-576, eff. 7-1-12; 97-708, eff. 7-1-12.)

4 (225 ILCS 422/110)

5 (Section scheduled to be repealed on January 1, 2027)

6 Sec. 110. Repossession of vehicles.

7 (a) With regard to collateral subject to a security
8 agreement, repossession occurs when the licensed repossession
9 agency employee gains entry into the collateral, the
10 collateral becomes connected to a tow vehicle, or the licensed
11 repossession agency employee has physical control, custody, or
12 possession of the collateral.

13 (b) The licensed repossession agency shall confirm with
14 the legal owner of a recovered vehicle whether the legal owner
15 holds a security interest in the personal effects or other
16 property contained in or on the recovered vehicle.

17 (c) If personal effects or other property not covered by a
18 security agreement are contained in or on a recovered vehicle
19 at the time it is recovered, then the personal effects and
20 other property not covered by a security agreement must be
21 completely and accurately inventoried, and a record of the
22 inventory shall be maintained on file with the licensed
23 repossession agency for a period of 2 years following the date
24 of repossession. The licensed repossession agency shall hold
25 all personal effects and other property not covered by a

1 security agreement until the licensed repossession agency
2 either returns the personal effects and other property to the
3 debtor or disposes of the personal effects and other property
4 in accordance with this Section.

5 (d) Within 5 working days following the date of
6 repossession, the licensed repossession agency shall give
7 written notification to the debtor of the whereabouts of
8 personal effects or other property inventoried. At least 45
9 days prior to disposing of such personal effects or other
10 property, the licensed repossession agency shall, by United
11 States Postal Service certified mail, notify the debtor of the
12 intent to dispose of the property. Should the debtor, or his or
13 her lawful designee, appear to retrieve the personal property
14 prior to the date on which the licensed repossession agency is
15 allowed to dispose of the property, the licensed repossession
16 agency shall surrender the personal property to that
17 individual upon payment of any reasonably incurred expenses
18 for inventory and storage.

19 (e) If personal property is not claimed within 45 days of
20 the notice of intent to dispose, then the licensed
21 repossession agency may dispose of the personal property at
22 its discretion, except that illegal items or contraband shall
23 be surrendered to a law enforcement agency, and the licensed
24 repossession agency shall retain a receipt or other proof of
25 surrender as part of the inventory, ~~and~~ disposal records, and
26 recordkeeping it maintains. The licensed repossession agency

1 shall recycle or dispose of any personal effect that is a
2 hazardous material in the manner required by State or federal
3 law. In any instance in which a licensed repossessing agency
4 certifies both that a repossessed vehicle contains one or more
5 hazardous materials and that the agency disposed of such
6 hazardous materials, the legal owner shall pay the licensed
7 repossessing agency a disposal or recycling surcharge fee plus
8 such additional fees as are charged pursuant to federal,
9 State, or local law, ordinance, regulation, or rule for the
10 disposal of the relevant hazardous material or materials. The
11 first surcharge fee shall be \$50. On January 15, 2025 and each
12 year thereafter, the Commission shall adjust and publish a new
13 surcharge fee, calculated according to the previous year's
14 Consumer Price Index for All Urban Consumers, published by the
15 Bureau of Labor Statistics of the federal Department of Labor.
16 The inventory of the personal property and the records
17 regarding any disposal of personal property shall be
18 maintained for a period of 2 years in the permanent records of
19 the licensed repossession agency and shall be made available
20 upon request to the Commission.

21 (f) If a licensed repossession agency has cause to believe
22 that a vehicle that serves as collateral collects or stores
23 personal information, as defined under Section 10, then, as
24 soon as practicable upon repossession of the vehicle and prior
25 to the release of the vehicle from the possession of the
26 licensed repossession agency, the licensed repossession agency

1 shall clear, erase, delete, or otherwise eliminate the
2 personal information collected or stored in or by the vehicle
3 by utilizing a standardized electronic solution that has been
4 approved by the American Recovery Association.

5 (Source: P.A. 97-576, eff. 7-1-12.)