

AN ACT concerning regulation.

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

Section 5. The Collateral Recovery Act is amended by changing Sections 10 and 30 as follows:

(225 ILCS 422/10)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10. Definitions. In this Act:

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

"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 the possession of the collateral. A photocopy, facsimile copy, or electronic copy of an assignment shall have the same force and

effect as an original written assignment.

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

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

"Collateral" means any vehicle, boat, recreational vehicle, motor home, motorcycle, or other property that is subject to a security, lease, or rental agreement.

"Commission" means the Illinois Commerce Commission.

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

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

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

agreement.

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

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

"Personal effects" means any property contained within or on repossessed collateral, or property that is not permanently affixed to the collateral, that is not the property of the legal owner.

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

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

"Remote storage location" means a secured storage facility of a licensed repossession agency designated for the storage of collateral that is a secure building or has a perimeter that is secured with a fencing construction that makes the area not accessible to the public. A remote storage location shall not transact business with the public and shall provide evidence of

applicable insurance to the Commission that specifies the licensed repossession agency as the primary policy holder. A remote storage location shall be located in a commercially zoned area physically located in Illinois.

"Repossession agency" means any person or entity conducting business within the State of Illinois, that, for any type of consideration, engages in the business of, accepts employment to furnish, or agrees to provide or provides property locating services, property recovery, recovered property transportation, recovered property storage, or all services relevant to any of the following:

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

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

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

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

(5) The possession of collateral.

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

"Repossession agency" does not include any of the

following:

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

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

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

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

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

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

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

"Secured storage facility" means an area located on the same premises as a repossession agency office or branch office that is designated for the storage of collateral and is a secure building or has a perimeter that is secured with a

fencing construction that makes the area not accessible to the public. Each repossession agency office or branch office must maintain a secured storage facility.

"Security agreement" means an obligation, pledge, mortgage, chattel mortgage, lease agreement, rental 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" includes a bailment where an employer-employee relationship exists or existed between the bailor and the bailee.

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

(225 ILCS 422/30)

(This Section may contain text from a Public Act with a delayed effective date)

(Section scheduled to be repealed on January 1, 2022)

Sec. 30. License or registration required.

(a) It shall be unlawful for any person or entity to repossess a vehicle or collateral in this State, attempt to repossess a vehicle or collateral in this State, or to hold himself, herself, or itself out to be a repossession agency unless licensed under this Act.

(b) It shall be unlawful for any person to repossess a vehicle or collateral in this State, attempt to repossess a vehicle or collateral in this State, or to hold himself or

herself out to be a licensed recovery manager unless licensed under this Act.

(c) It shall be unlawful for any person to repossess a vehicle or collateral in this State, attempt to repossess a vehicle or collateral in this State, or hold himself or herself out to be a repossession agency employee unless he or she holds a valid recovery permit issued by the Commission under this Act.

(d) This Act does not apply to a financial institution or the employee of a financial institution when engaged in an activity otherwise covered by this Act if the activity is conducted by the employee on behalf of that financial institution.

(e) This Act does not apply to a towing company or towing operator when an employee or agent of the creditor financial institution is present at the site from which the vehicle is towed.

(f) This Act does not apply to an automobile rental company or the employee of an automobile rental company when engaged in an activity otherwise covered by this Act if the activity is conducted by the employee on behalf of that automobile rental company.

(g) This Act does not apply to a towing company or towing operator when an employee or agent of an automobile rental company is present at the site from which the vehicle is towed.

(h) This Act does not apply to a retail seller of equipment

or an employee of a retail seller of equipment, as equipment is defined in Section 9-102 of the Uniform Commercial Code, and lawn and grounds care consumer goods when engaged in an activity otherwise covered by this Act if the activity is limited to the repossession of the type of goods routinely sold by that retail seller in the manner authorized by Section 9-609 of the Uniform Commercial Code on behalf of the owner of a security interest in that collateral.

(i) This Act does not apply to an entity or the employee of an entity that primarily finances wholesale and retail transactions related to the purchase or lease of equipment manufactured by its affiliate when engaged in an activity otherwise covered by this Act if the activity is limited to the repossession of the equipment.

(j) This Act does not apply to a salvage auction or the employee of a salvage auction when engaged in an activity otherwise covered by this Act if the activity is conducted by the employee on behalf of that salvage auction.

(k) This Act does not apply to a towing company or towing operator when the company or operator is acting on behalf of a salvage auction.

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

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section

Public Act 097-0708

SB3249 Enrolled

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represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 99. Effective date. This Act takes effect July 1, 2012.