



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4963

Introduced 2/3/2012, by Rep. Frank J. Mautino

SYNOPSIS AS INTRODUCED:

225 ILCS 422/10
225 ILCS 422/30

Amends the Collateral Recovery Act. Defines "automobile rental company". Provides that the 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 the Act if the activity is conducted by the employee on behalf of that automobile rental company. Provides that the 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. Provides that the Act does not apply to persons engaged in the recovery of collateral that is incidental to and within the scope of the person's primary business purpose and the primary business purpose is other than repossession. Effective July 1, 2012.

LRB097 17300 CEL 62501 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 Collateral Recovery Act is amended by
5 changing Sections 10 and 30 as follows:

6 (225 ILCS 422/10)

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

9 (Section scheduled to be repealed on January 1, 2022)

10 Sec. 10. Definitions. In this Act:

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

19 "Assignment" also means a written authorization by an
20 employer to recover any collateral entrusted to an employee or
21 former employee if the possessor is wrongfully in the
22 possession of the collateral. A photocopy, facsimile copy, or
23 electronic copy of an assignment shall have the same force and

1 effect as an original written assignment.

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

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

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

15 "Commission" means the Illinois Commerce Commission.

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

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

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 and
7 is in control or management of an Illinois repossession agency.

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

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

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

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

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

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

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

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

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

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

22 (5) The possession of collateral.

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

26 "Repossession agency" does not include any of the

1 following:

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

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

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

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

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

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

20 "Secured storage facility" means an area located on the
21 same premises as a repossession agency office or branch office
22 that is designated for the storage of collateral and is a
23 secure building or has a perimeter that is secured with a
24 fencing construction that makes the area not accessible to the
25 public. Each repossession agency office or branch office must
26 maintain a secured storage facility.

1 "Security agreement" means an obligation, pledge,
2 mortgage, chattel mortgage, lease agreement, rental agreement,
3 deposit, or lien, given by a debtor as security for payment or
4 performance of his or her debt by furnishing the creditor with
5 a recourse to be used in case of failure in the principal
6 obligation. "Security agreement" includes a bailment where an
7 employer-employee relationship exists or existed between the
8 bailor and the bailee.

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

10 (225 ILCS 422/30)

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

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

14 Sec. 30. License or registration required.

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

20 (b) It shall be unlawful for any person to repossess a
21 vehicle or collateral in this State, attempt to repossess a
22 vehicle or collateral in this State, or to hold himself or
23 herself out to be a licensed recovery manager unless licensed
24 under this Act.

25 (c) It shall be unlawful for any person to repossess a

1 vehicle or collateral in this State, attempt to repossess a
2 vehicle or collateral in this State, or hold himself or herself
3 out to be a repossession agency employee unless he or she holds
4 a valid recovery permit issued by the Commission under this
5 Act.

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

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

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

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

23 (h) This Act does not apply to persons engaged in the
24 recovery of collateral that is incidental to and within the
25 scope of the person's primary business purpose and the primary
26 business purpose is other than repossession.

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

2 Section 95. No acceleration or delay. Where this Act makes
3 changes in a statute that is represented in this Act by text
4 that is not yet or no longer in effect (for example, a Section
5 represented by multiple versions), the use of that text does
6 not accelerate or delay the taking effect of (i) the changes
7 made by this Act or (ii) provisions derived from any other
8 Public Act.

9 Section 99. Effective date. This Act takes effect July 1,
10 2012.