

Action Auto Recovery

“Southern California’s Repossession & Skip Tracing Experts Since 1967”

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Serving: Los Angeles, Orange, Riverside & San Diego Counties Daily

FYI Personal Effects Law Changes - Effective January 1st 2007

The change in the law concerning personal property located in or attached to the collateral. In California this type of personal property is referred to as "personal effects." Personal effects too often becomes an issue after a repossession occurs. It is often alleged that property taken during the repossession should have been or was not returned to the owner of that property. Starting January 1st 2007 the changes to the California Recovery Act will go into effect. The changes to the statute are underlined below:

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 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.

The new law protects the reposessor from problems when a debtor or a secured party claim that items attached to the repossessed collateral belong to them and not the lender who assigned the account for repossession. To be protected under the statute the reposessor must complete an accurate inventory and list any property attached to the collateral that may not be covered by the client's security agreement on the completed personal property inventory. By listing all items that appear to have been attached to the collateral after it was purchased, the debtor and your client must resolve the ownership interest, not you.

As a point of interest there is a reference in the statute to the "legal owner" in most states the debtor is the owner of the vehicle and the lender (Secured Party) holds a security interest as a lien holder. California defines legal owner by statute as:

A "legal owner" is a person holding a security interest in a vehicle which is subject to the provisions of the Uniform Commercial Code, or the lesser of a vehicle to the State or to any county, city, district, or political subdivision of the State, or to the United States, under a lease, lease-sale, or rental-purchase agreement which grants possession of the vehicle to the lessee for a period of 30 consecutive days or more.

With the exception of the terms "personal effects" and "legal owner" the new California statute would be a good model for any state wishing to implement a law that provides reposseors with a solution to choosing between a debtor suing and a client threatening to stop sending you accounts.

Complements of Action Auto Recovery – RA 641

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