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A bill to be entitled
 An act relating to consumer services; amending s.
 493.6101, F.S.; expanding the definition of the term
 "repossession" for purposes of the regulation of
 repossession services; amending s. 493.6110, F.S.;
 revising insurance requirements for licensure under ch.
 493, F.S.; providing insurance requirements with respect
 to Class "B" security agencies; amending s. 493.6118,
 F.S.; revising the grounds for disciplinary action against
 a person or entity that is licensed as, or an applicant
 for licensure as, a recovery agency, recovery agent, or
 recovery agent intern; amending s. 493.6403, F.S.;
 revising licensure requirements for recovery agent
 managers and recovery agents, to conform; amending s.
 493.6404, F.S.; revising provisions relating to inventory
 of certain personal effects or property contained in or on
 repossessed property, to conform; amending s. 493.6405,
 F.S.; providing a penalty for the unauthorized sale of
 repossessed aircraft, personal watercraft, all-terrain
 vehicles, farm equipment, or industrial equipment by a
 recovery agent or recovery agent intern and for failure to
 remit the net proceeds from the sale of such repossessed
 property to the owner or lienholder; providing an
 effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (22) of section 493.6101, Florida

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29 Statutes, is amended to read:

30 493.6101 Definitions.--

31 (22) "Repossession" means the recovery of a motor vehicle
 32 as defined under s. 320.01(1), a ~~or~~ mobile home as defined in s.
 33 320.01(2), a ~~or~~ motorboat as defined under s. 327.02, an
 34 aircraft as defined in s. 330.27(1), a personal watercraft as
 35 defined in s. 327.02, an all-terrain vehicle as defined in s.
 36 316.2074, farm equipment as defined under s. 686.402, or
 37 industrial equipment, by an individual who is authorized by the
 38 legal owner, lienholder, or lessor to recover, or to collect
 39 money payment in lieu of recovery of, that which has been sold
 40 or leased under a security agreement that contains a
 41 repossession clause. As used in this subsection, the term
 42 "industrial equipment" includes, but is not limited to,
 43 tractors, road rollers, cranes, fork lifts, backhoes, and
 44 bulldozers. The term "industrial equipment" also includes other
 45 vehicles that are propelled by power other than muscular power
 46 and that are used in the manufacture of goods or used in the
 47 provision of services. A repossession is complete when a
 48 licensed recovery agent is in control, custody, and possession
 49 of such repossessed property ~~motor vehicle, mobile home, or~~
 50 ~~motorboat.~~

51 Section 2. Section 493.6110, Florida Statutes, is amended
 52 to read:

53 493.6110 Licensee's insurance.--A Class "B" ~~No~~ agency
 54 license may not ~~shall~~ be issued unless the applicant first files
 55 with the department a certification of insurance evidencing
 56 commercial general liability coverage ~~as delineated below.~~ The

57 coverage shall provide the department as an additional insured
 58 for the purpose of receiving all notices of modification or
 59 cancellation of such insurance. Coverage shall be written by an
 60 insurance company which is lawfully engaged to provide insurance
 61 coverage in Florida. Coverage shall provide for a combined
 62 single-limit policy in the amount of at least \$300,000, ~~which~~
 63 ~~policy shall include comprehensive general liability coverage~~
 64 ~~for death, bodily injury, property damage, and personal injury~~
 65 ~~coverage including false arrest, detention or imprisonment,~~
 66 ~~malicious prosecution, libel, slander, defamation of character,~~
 67 ~~and violation of the right of privacy.~~ Coverage shall insure for
 68 the liability of all employees licensed by the department while
 69 acting in the course of their employment.

70 (1) The licensed agency shall notify the department of any
 71 claim against such insurance.

72 (2) The licensed agency shall notify the department
 73 immediately upon cancellation of the insurance policy, whether
 74 such cancellation was initiated by the insurance company or the
 75 insured agency.

76 (3) The agency license shall be automatically suspended
 77 upon the date of cancellation unless evidence of insurance is
 78 provided to the department prior to the effective date of
 79 cancellation.

80 Section 3. Section 493.6118, Florida Statutes, is amended
 81 to read:

82 493.6118 Grounds for disciplinary action.--

83 (1) The following constitute grounds for which
 84 disciplinary action specified in subsection (2) may be taken by

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85 the department against any licensee, agency, or applicant
86 regulated by this chapter, or any unlicensed person engaged in
87 activities regulated under this chapter.

88 (a) Fraud or willful misrepresentation in applying for or
89 obtaining a license.

90 (b) Use of any fictitious or assumed name by an agency
91 unless the agency has department approval and qualifies under s.
92 865.09.

93 (c) Being found guilty of or entering a plea of guilty or
94 nolo contendere to, regardless of adjudication, or being
95 convicted of a crime that directly relates to the business for
96 which the license is held or sought. A plea of nolo contendere
97 shall create a rebuttable presumption of guilt to the underlying
98 criminal charges, and the department shall allow the individual
99 being disciplined or denied an application for a license to
100 present any mitigating circumstances surrounding his or her
101 plea.

102 (d) A false statement by the licensee that any individual
103 is or has been in his or her employ.

104 (e) A finding that the licensee or any employee is guilty
105 of willful betrayal of a professional secret or any unauthorized
106 release of information acquired as a result of activities
107 regulated under this chapter.

108 (f) Proof that the applicant or licensee is guilty of
109 fraud or deceit, or of negligence, incompetency, or misconduct,
110 in the practice of the activities regulated under this chapter.

111 (g) Conducting activities regulated under this chapter
112 without a license or with a revoked or suspended license.

113 (h) Failure of the licensee to maintain in full force and
 114 effect the commercial general liability insurance coverage
 115 required by s. 493.6110.

116 (i) Impersonating, or permitting or aiding and abetting an
 117 employee to impersonate, a law enforcement officer or an
 118 employee of the state, the United States, or any political
 119 subdivision thereof by identifying himself or herself as a
 120 federal, state, county, or municipal law enforcement officer or
 121 official representative, by wearing a uniform or presenting or
 122 displaying a badge or credentials that would cause a reasonable
 123 person to believe that he or she is a law enforcement officer or
 124 that he or she has official authority, by displaying any
 125 flashing or warning vehicular lights other than amber colored,
 126 or by committing any act that is intended to falsely convey
 127 official status.

128 (j) Commission of an act of violence or the use of force
 129 on any person except in the lawful protection of one's self or
 130 another from physical harm.

131 (k) Knowingly violating, advising, encouraging, or
 132 assisting the violation of any statute, court order, capias,
 133 warrant, injunction, or cease and desist order, in the course of
 134 business regulated under this chapter.

135 (l) Soliciting business for an attorney in return for
 136 compensation.

137 (m) Transferring or attempting to transfer a license
 138 issued pursuant to this chapter.

139 (n) Employing or contracting with any unlicensed or
 140 improperly licensed person or agency to conduct activities

141 regulated under this chapter, or performing any act that
 142 assists, aids, or abets a person or business entity in engaging
 143 in unlicensed activity, when the licensure status was known or
 144 could have been ascertained by reasonable inquiry.

145 (o) Failure or refusal to cooperate with or refusal of
 146 access to an authorized representative of the department engaged
 147 in an official investigation pursuant to this chapter.

148 (p) Failure of any partner, principal corporate officer,
 149 or licensee to have his or her identification card in his or her
 150 possession while on duty.

151 (q) Failure of any licensee to have his or her license in
 152 his or her possession while on duty, as specified in s.
 153 493.6111(1).

154 (r) Failure or refusal by a sponsor to certify a biannual
 155 written report on an intern or to certify completion or
 156 termination of an internship to the department within 15 working
 157 days.

158 (s) Failure to report to the department any person whom
 159 the licensee knows to be in violation of this chapter or the
 160 rules of the department.

161 (t) Violating any provision of this chapter.

162 (u) In addition to the grounds for disciplinary action
 163 prescribed in paragraphs (a)-(t), Class "R" recovery agencies,
 164 Class "E" recovery agents, and Class "EE" recovery agent interns
 165 are prohibited from committing the following acts:

166 1. Recovering a motor vehicle, mobile home, ~~or~~ motorboat,
 167 aircraft, personal watercraft, all-terrain vehicle, farm
 168 equipment, or industrial equipment that has been sold under a

169 conditional sales agreement or under the terms of a chattel
 170 mortgage before authorization has been received from the legal
 171 owner or mortgagee.

172 2. Charging for expenses not actually incurred in
 173 connection with the recovery, transportation, storage, or
 174 disposal of repossessed property ~~a motor vehicle, mobile home,~~
 175 ~~motorboat,~~ or personal property obtained in a repossession.

176 3. Using any ~~motor vehicle, mobile home, or motorboat that~~
 177 ~~has been~~ repossessed property, or ~~using~~ personal property
 178 obtained in a repossession~~,~~ for the personal benefit of a
 179 licensee or an officer, director, partner, manager, or employee
 180 of a licensee.

181 4. Selling property ~~a motor vehicle, mobile home, or~~
 182 ~~motorboat~~ recovered under the provisions of this chapter, except
 183 with written authorization from the legal owner or the mortgagee
 184 thereof.

185 5. Failing to notify the police or sheriff's department of
 186 the jurisdiction in which the repossessed property is recovered
 187 within 2 hours after recovery.

188 6. Failing to remit moneys~~,~~ collected in lieu of recovery
 189 of a motor vehicle, mobile home, ~~or~~ motorboat, aircraft,
 190 personal watercraft, all-terrain vehicle, farm equipment, or
 191 industrial equipment to the client within 10 working days.

192 7. Failing to deliver to the client a negotiable
 193 instrument that is payable to the client, within 10 working days
 194 after receipt of such instrument.

195 8. Falsifying, altering, or failing to maintain any
 196 required inventory or records regarding disposal of personal

197 property contained in or on repossessed property ~~a recovered~~
 198 ~~motor vehicle, mobile home, or motorboat~~ pursuant to s.
 199 493.6404(1).

200 9. Carrying any weapon or firearm when he or she is on
 201 private property and performing duties under his or her license
 202 whether or not he or she is licensed pursuant to s. 790.06.

203 10. Soliciting from the legal owner the recovery of
 204 property subject to repossession after such property has been
 205 seen or located on public or private property if the amount
 206 charged or requested for such recovery is more than the amount
 207 normally charged for such a recovery.

208 11. Wearing, presenting, or displaying a badge in the
 209 course of performing a repossession regulated by this chapter
 210 ~~repossessing a motor vehicle, mobile home, or motorboat~~.

211 (2) When the department finds any violation of subsection
 212 (1), it may do one or more of the following:

213 (a) Deny an application for the issuance or renewal of a
 214 license.

215 (b) Issue a reprimand.

216 (c) Impose an administrative fine not to exceed \$1,000 for
 217 every count or separate offense.

218 (d) Place the licensee on probation for a period of time
 219 and subject to such conditions as the department may specify.

220 (e) Suspend or revoke a license.

221 (3) The department may deny an application for licensure
 222 citing lack of good moral character only if the finding by the
 223 department of lack of good moral character is supported by clear
 224 and convincing evidence. In such cases, the department shall

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225 furnish the applicant a statement containing the findings of the
226 department, a complete record of the evidence upon which the
227 determination was based, and a notice of the rights of the
228 applicant to an administrative hearing and subsequent appeal.

229 (4) Notwithstanding the provisions of paragraph (1)(c) and
230 subsection (2):

231 (a) If the applicant or licensee has been convicted of a
232 felony, the department shall deny the application or revoke the
233 license unless and until civil rights have been restored by the
234 State of Florida or by a state acceptable to Florida and a
235 period of 10 years has expired since final release from
236 supervision.

237 (b) A Class "G" applicant who has been convicted of a
238 felony shall also have had the specific right to possess, carry,
239 or use a firearm restored by the State of Florida.

240 (c) If the applicant or licensee has been found guilty of,
241 entered a plea of guilty to, or entered a plea of nolo
242 contendere to a felony and adjudication of guilt is withheld,
243 the department shall deny the application or revoke the license
244 until a period of 3 years has expired since final release from
245 supervision.

246 (d) A plea of nolo contendere shall create a rebuttable
247 presumption of guilt to the underlying criminal charges, and the
248 department shall allow the person being disciplined or denied an
249 application for a license to present any mitigating
250 circumstances surrounding his or her plea.

251 (e) The grounds for discipline or denial cited in this
252 subsection shall be applied to any disqualifying criminal

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253 history regardless of the date of commission of the underlying
254 criminal charge. Such provisions shall be applied retroactively
255 and prospectively.

256 (5) Upon revocation or suspension of a license, the
257 licensee shall forthwith return the license which was suspended
258 or revoked.

259 (6) The agency license and the approval or license of each
260 officer, partner, or owner of the agency are automatically
261 suspended upon entry of a final order imposing an administrative
262 fine against the agency, until the fine is paid, if 30 calendar
263 days have elapsed since the entry of the final order. All owners
264 and corporate or agency officers or partners are jointly and
265 severally liable for agency fines. Neither the agency license or
266 the approval or license of any officer, partner, or owner of the
267 agency may be renewed, nor may an application be approved if the
268 owner, licensee, or applicant is liable for an outstanding
269 administrative fine imposed under this chapter. An individual's
270 approval or license becomes automatically suspended if a fine
271 imposed against the individual or his or her agency is not paid
272 within 30 days after the date of the final order, and remains
273 suspended until the fine is paid. Notwithstanding the provisions
274 of this subsection, an individual's approval or license may not
275 be suspended nor may an application be denied when the licensee
276 or the applicant has an appeal from a final order pending in any
277 appellate court.

278 (7) An applicant or licensee shall be ineligible to
279 reapply for the same class of license for a period of 1 year
280 following final agency action resulting in the denial or

281 revocation of a license applied for or issued under this
 282 chapter. This time restriction shall not apply to administrative
 283 denials wherein the basis for denial was:

284 (a) An inadvertent error or omission on the application;

285 (b) The experience documented by the department was
 286 insufficient at the time of application;

287 (c) The department was unable to complete the criminal
 288 background investigation due to insufficient information from
 289 the Department of Law Enforcement, the Federal Bureau of
 290 Investigation, or any other applicable law enforcement agency;

291 or

292 (d) Failure to submit required fees.

293 Section 4. Paragraphs (b) and (c) of subsection (1) of
 294 section 493.6403, Florida Statutes, are amended to read:

295 493.6403 License requirements.--

296 (1) In addition to the license requirements set forth in
 297 this chapter, each individual or agency shall comply with the
 298 following additional requirements:

299 (b) An applicant for Class "MR" license shall have at
 300 least 1 year of lawfully gained, verifiable, full-time
 301 experience as a Class "E" licensee performing repossessions of
 302 motor vehicles, mobile homes, ~~or~~ motorboats, aircraft, personal
 303 watercraft, all-terrain vehicles, farm equipment, or industrial
 304 equipment.

305 (c) An applicant for a Class "E" license shall have at
 306 least 1 year of lawfully gained, verifiable, full-time
 307 experience in one, or a combination of more than one, of the
 308 following:

309 1. Repossession of motor vehicles as defined in s.
 310 320.01(1), mobile homes as defined in s. 320.01(2), ~~or~~
 311 motorboats as defined in s. 327.02, aircraft as defined in s.
 312 330.27(1), personal watercraft as defined in s. 327.02, all-
 313 terrain vehicles as defined in s. 316.2074, farm equipment as
 314 defined under s. 686.402, or industrial equipment as defined in
 315 493.6101(22).

316 2. Work as a Class "EE" licensed intern.

317 Section 5. Subsection (1) of section 493.6404, Florida
 318 Statutes, is amended to read:

319 493.6404 Property inventory; vehicle license
 320 identification numbers.--

321 (1) If personal effects or other property not covered by a
 322 security agreement are contained in or on a recovered vehicle,
 323 mobile home, ~~or~~ motorboat, aircraft, personal watercraft, all-
 324 terrain vehicle, farm equipment, or industrial equipment at the
 325 time it is recovered, a complete and accurate inventory shall be
 326 made of such personal effects or property. The date and time the
 327 inventory is made shall be indicated, and it shall be signed by
 328 the Class "E" or Class "EE" licensee who obtained the personal
 329 property. The inventory of the personal property and the records
 330 regarding any disposal of personal property shall be maintained
 331 for a period of 2 years in the permanent records of the licensed
 332 agency and shall be made available, upon demand, to an
 333 authorized representative of the department engaged in an
 334 official investigation.

335 Section 6. Section 493.6405, Florida Statutes, is amended
 336 to read:

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337 493.6405 Sale of motor vehicle, mobile home, ~~or~~ motorboat,
 338 aircraft, personal watercraft, all-terrain vehicle, farm
 339 equipment, or industrial equipment by a licensee; penalty.--

340 (1) A Class "E" or Class "EE" licensee shall obtain, prior
 341 to sale, written authorization and a negotiable title from the
 342 owner or lienholder to sell any repossessed motor vehicle,
 343 mobile home, ~~or~~ motorboat, aircraft, personal watercraft, all-
 344 terrain vehicle, farm equipment, or industrial equipment.

345 (2) A Class "E" or Class "EE" licensee shall send the net
 346 proceeds from the sale of such repossessed motor vehicle, mobile
 347 home, ~~or~~ motorboat, aircraft, personal watercraft, all-terrain
 348 vehicle, farm equipment, or industrial equipment to the owner or
 349 lienholder, within 20 working days after the licensee executes
 350 the documents which permit the transfer of legal ownership to
 351 the purchaser.

352 (3) A person who violates a provision of this section
 353 commits a felony of the third degree, punishable as provided in
 354 s. 775.082, s. 775.083, or s. 775.084.

355 Section 7. This act shall take effect October 1, 2005.