

By: Senator(s) Huggins

To: Business and Financial
Institutions

SENATE BILL NO. 2928

1 AN ACT TO PROVIDE FOR THE LICENSING AND REGULATION OF PERSONS
2 WHO ENGAGE IN THE BUSINESS OF REPOSSESSING MOTOR VEHICLES; TO
3 EXEMPT CERTAIN INDIVIDUALS FROM THE PROVISIONS OF THIS ACT; TO
4 PROVIDE THAT THE SECRETARY OF STATE SHALL ADMINISTER THIS ACT; TO
5 PROVIDE FOR APPLICATIONS FOR LICENSES UNDER THIS ACT; TO PROVIDE
6 FOR THE MINIMUM REQUIREMENTS FOR LICENSING UNDER THIS ACT; TO
7 PROVIDE FOR THE INVESTIGATION OF APPLICANTS BY THE SECRETARY OF
8 STATE; TO REQUIRE AGENCIES LICENSED UNDER THIS ACT TO MAINTAIN
9 CERTAIN GENERAL LIABILITY INSURANCE COVERAGE; TO PROVIDE FOR THE
10 FORM OF THE LICENSE AND IDENTITY CARDS; TO PROVIDE FOR THE RENEWAL
11 AND CANCELLATION OF LICENSES; TO AUTHORIZE LICENSEES TO SPONSOR
12 INTERNS; TO ESTABLISH A SPECIAL FUND IN THE STATE TREASURY INTO
13 WHICH FEES COLLECTED UNDER THIS ACT SHALL BE DEPOSITED; TO PROVIDE
14 THAT THE MONEY IN THE FUND SHALL BE APPROPRIATED TO THE SECRETARY
15 OF STATE FOR THE ADMINISTRATION OF THIS ACT; TO PROVIDE THE
16 GROUNDS FOR DISCIPLINARY ACTION BY THE SECRETARY OF STATE; TO
17 PROVIDE PENALTIES FOR VIOLATIONS OF THIS ACT; TO PROVIDE FOR THE
18 TYPES OF LICENSES THAT MAY BE ISSUED UNDER THIS ACT; TO ESTABLISH
19 THE FEES FOR SUCH LICENSES; TO REQUIRE AN INVENTORY OF PERSONAL
20 PROPERTY FOUND IN REPOSSESSED VEHICLES; AND FOR RELATED PURPOSES.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

22 **SECTION 1.** As used in this act:

23 (a) "Person" means any individual, firm, company, agency,
24 organization, partnership or corporation.

25 (b) "Licensee" means any person licensed under this act.

26 (c) "Principal officer" means an individual who holds the
27 office of president, vice president, secretary or treasurer in a
28 corporation.

29 (d) "Advertising" means the submission of bids, contracting
30 or making known by any public notice or solicitation of business,
31 directly or indirectly, that services regulated under this chapter
32 are available for consideration.

33 (e) "Branch office" each additional location of an agency
34 where business is actively conducted which advertises as
35 performing or is engaged in the business authorized by the
36 licensee.

37 (f) "Sponsor" means any recovery agent or recovery agent
38 manager licensee who supervises and maintains under his or her
39 direction and controls a recovery agent intern.

40 (g) "Intern" means an individual who studies as a trainee or
41 apprentice under the direction and control of a designated
42 sponsoring licensee.

43 (h) "Manager" means any licensee who directs the activities
44 of licensees at any recovery agency or branch office. The manager
45 shall be assigned to and shall primarily operate from the agency
46 or branch office location for which he or she has been designated
47 as manager.

48 (i) "Recovery agency" means any person who, for
49 consideration, advertises as providing or is engaged in the
50 business of performing repossessions.

51 (j) "Recovery agent" means any individual who, for
52 consideration, advertises as providing or performs repossessions.

53 (k) "Repossession" means the recovery of a motor vehicle, by
54 an individual who is authorized by the legal owner, lienholder, or
55 lessor to recover, or to collect money payment in lieu of recovery
56 of, that which has been sold or leased under a security agreement
57 that contains a repossession clause. A repossession is complete
58 when a licensed recovery agency is in control, custody and
59 possession of such motor vehicle.

60 **SECTION 2.** This act shall not apply to:

61 (1) Any bank subject to the jurisdiction of the Department
62 of Banking and Consumer Finance or the Comptroller of the Currency
63 of the United States.

64 (2) Any person organized, chartered or holding a license or
65 authorization certificate to make loans pursuant to the laws of
66 this state or the United States who is subject to supervision by
67 any official or agency of this state or the United States.

68 (3) An attorney-at-law in performing his or her duties as an
69 attorney-at-law.

70 (4) The legal owner of personal property which has been sold
71 under a security agreement.

72 (5) An officer or employee of the United States of America,
73 or of this state or a political subdivision thereof, while the
74 officer or employee is engaged in the performance of his or her
75 official duties.

76 **SECTION 3.** The Secretary of State shall adopt rules
77 necessary to administer this act.

78 **SECTION 4.** (1) Each individual, partner or principal
79 officer in a corporation desirous to be licensed as a recovery
80 agency shall file with the Secretary of State, a complete
81 application accompanied by an application fee set by the Secretary
82 of State not to exceed Sixty Dollars (\$60.00). This application
83 fee shall not be refundable.

84 (a) The application submitted by any individual,
85 partner or corporate officer must be approved by the Secretary of
86 State prior to that individual, partner or corporate officer
87 assuming his or her duties.

88 (b) Individuals who invest in the ownership of a
89 licensed agency, but do not participate in, direct or control the
90 operations of the agency shall not be required to file an
91 application.

92 (2) Each application shall be signed by the individual under
93 oath and shall be notarized.

94 (3) The application shall contain the following information
95 concerning the individual signing it:

96 (a) Name and any aliases.

97 (b) Age and date of birth.

98 (c) Place of birth.

99 (d) Social security number or alien registration

100 number, whichever is applicable.

101 (e) Present residence address and his or her residence
102 addresses within the five (5) years immediately preceding the
103 submission of the application.

104 (f) Occupations held presently and within the five (5)
105 years immediately preceding the submission of the application.

106 (g) A statement of all criminal convictions.

107 (h) A full set of fingerprints on a card provided by
108 the Secretary of State and a fingerprint fee to be established by
109 rule of the Secretary of State based upon costs determined by
110 state and federal agency charges and department processing costs.
111 An applicant who has, within the immediately preceding six (6)
112 months, submitted a fingerprint card and fee for licensing
113 purposes under this act shall not be required to submit another
114 fingerprint card or fee.

115 (i) A personal inquiry waiver which allows the
116 Secretary of State to conduct necessary investigations to satisfy
117 the requirements of this act.

118 (j) Such further facts as may be required by the
119 Secretary of State to show that the individual signing the
120 application is of good moral character and qualified by experience
121 and training to satisfy the requirements of this act.

122 All applicants shall submit one (1) photograph taken within
123 the six (6) months immediately preceding the submission of the
124 application.

125 (4) In addition to the application requirements for
126 individuals, partners or officers outlined under subsection (3) of
127 this section, the application for a recovery agency license shall
128 contain the following information:

129 (a) The proposed name under which the agency intends to
130 operate.

131 (b) The street address, mailing address, and telephone
132 numbers of the principal location at which business is to be
133 conducted in this state.

134 (c) The street address, mailing address and telephone
135 numbers of all branch offices within this state.

136 (d) The names and titles of all partners or, in the
137 case of a corporation, the names and titles of its principal
138 officers.

139 (5) Upon submission of a complete application, a recovery
140 agent, recovery agent intern or recovery agency manager applicant
141 may commence employment or appropriate duties for a licensed
142 agency or branch office. If the Secretary of State denies
143 application for licensure, the employment of the applicant must be
144 terminated immediately, unless he or she performs only unregulated
145 duties.

146 **SECTION 5.** (1) Each individual licensed by the Secretary of
147 State must:

148 (a) Be at least eighteen (18) years of age.

149 (b) Be of good moral character.

150 (c) Be a citizen or legal resident alien of the United
151 States or have been granted authorization to seek employment in
152 this country by the United States Immigration and Naturalization
153 Service.

154 (2) Each recovery agency shall have a minimum of one (1)
155 physical location within this state from which the normal business
156 of the agency is conducted, and this location shall be considered
157 the primary office for that recovery agency in this state.

158 (a) If a recovery agency desires to change the physical
159 location of the business, as it appears on the agency license, the
160 Secretary of State must be notified within ten (10) days of the
161 change, and, except upon renewal, the fee prescribed in this act
162 must be submitted for each license requiring revision. Each
163 license requiring revision must be returned with such
164 notification.

165 (b) The recovery agency license and any branch office
166 license shall at all times be posted in a conspicuous place at the

167 licensed physical location in this state where the business is
168 conducted.

169 (c) Each recovery agency branch office licensee shall
170 display, in a place that is in clear and unobstructed public view,
171 a notice on a form prescribed by the Secretary of State stating
172 that the business operating at this location is licensed and
173 regulated by the Secretary of State and that any questions or
174 complaints should be directed to the Secretary of State.

175 (d) A minimum of one (1) properly licensed manager
176 shall be designated for each recovery agency and branch office
177 location.

178 (3) Each recovery agent, recovery agent intern or recovery
179 agency manager licensee shall notify the division in writing
180 within ten (10) days of a change in his or her residence or
181 mailing address.

182 **SECTION 6.** Except as otherwise provided, prior to the
183 issuance of a license under this act, the Secretary of State shall
184 make an investigation of the applicant for a license. The
185 investigation shall include:

186 (a) An examination of fingerprint records and police
187 records; and

188 (b) Such other investigation of the individual as the
189 Secretary of State may deem necessary.

190 **SECTION 7.** (1) No recovery agency license shall be issued
191 unless the applicant first files with the Secretary of State a
192 certification of insurance evidencing coverage as delineated
193 below. The coverage shall provide the Secretary of State as an
194 additional insured for the purpose of receiving all notices of
195 modification or cancellation of such insurance. Coverage shall be
196 written by an insurance company which is lawfully engaged to
197 provide insurance coverage in Mississippi. Coverage shall provide
198 for a combined single-limit policy in the amount of at least Three
199 Hundred Thousand Dollars (\$300,000.00), which policy shall include

200 comprehensive general liability coverage for death, bodily injury,
201 property damage and personal injury coverage including false
202 arrest, detention or imprisonment, malicious prosecution, libel,
203 slander, defamation of character, and violation of the right of
204 privacy. Coverage shall insure for the liability of all employees
205 of the recovery agency licensed by the Secretary of State while
206 acting in the course of their employment.

207 (2) The licensed agency shall notify the Secretary of State
208 of any claim against such insurance.

209 (3) The licensed agency shall notify the Secretary of State
210 immediately upon cancellation of the insurance policy, whether
211 such cancellation was initiated by the insurance company or the
212 insured agency.

213 (4) The recovery agency license shall be automatically
214 suspended upon the date of cancellation unless evidence of
215 insurance is provided to the Secretary of State prior to the
216 effective date of cancellation.

217 **SECTION 8.** (1) All licenses issued pursuant to this act
218 shall be on a form prescribed by the Secretary of State and shall
219 include the licensee's name, license number, expiration date of
220 the license, and any other information the Secretary of State
221 deems necessary. Recovery agent, recovery agent intern and
222 recovery agency manager licenses shall be in the possession of
223 individual licensees while on duty.

224 (2) Licenses shall be valid for a period of two (2) years.

225 (3) The Secretary of State shall, upon complete application
226 and payment of the appropriate fees, issue a separate license to
227 each branch office for which application is made.

228 (4) It shall be the duty of every recovery agency to furnish
229 all of its partners, principal corporate officers and all licensed
230 employees an identification card. The card shall specify at least
231 the name and license number, if appropriate, of the holder of the
232 card and the name and license number of the recovery agency and

233 shall be signed by a representative of the agency and by the
234 holder of the card.

235 (a) Each individual to whom a license and
236 identification card have been issued shall be responsible for the
237 safekeeping thereof and shall not loan or let or allow any other
238 individual to use or display the license or card.

239 (b) The identification card shall be in the possession
240 of each partner, principal corporate officer or licensed employee
241 while on duty.

242 (c) Upon denial, suspension or revocation of a license,
243 or upon termination of a business association with the licensed
244 agency, it shall be the duty of each partner, principal corporate
245 officer, manager or licensed employee to return the identification
246 card to the issuing agency.

247 (5) A licensed recovery agency must include its agency
248 license number in any advertisement in any print medium or
249 directory, and must include its agency license number in any
250 written bid or offer to provide services.

251 **SECTION 9.** (1) After filing the application, unless the
252 Secretary of State declines to issue the license or revokes it
253 after issuance, a recovery agency shall, within five (5) working
254 days of the withdrawal, removal, replacement or addition of any or
255 all partners or officers, notify and file with the Secretary of
256 State complete applications for such individuals. The agency's
257 good standing under this act shall be contingent upon the
258 Secretary of State's approval of any new partner or officer.

259 (2) Each recovery agency shall, upon the employment and
260 termination of employment of a licensee, report such employment or
261 termination immediately to the Secretary of State and, in the case
262 a termination, report the reason or reasons therefor. The report
263 shall be on a form prescribed by the Secretary of State.

264 **SECTION 10.** (1) A license granted under the provisions of
265 this chapter shall be renewed biennially by the Secretary of
266 State.

267 (2) Not less than ninety (90) days prior to the expiration
268 date of the license, the Secretary of State shall mail a written
269 notice to the last known residence address for individual
270 licensees and to the last known agency address for agencies.

271 (3) Each licensee shall be responsible for renewing his or
272 her license on or before its expiration by filing with the
273 Secretary of State an application for renewal accompanied by
274 payment of the prescribed license fee.

275 Each recovery agency licensee shall additionally submit on a
276 form prescribed by the Secretary of State, a certification of
277 insurance which evidences that the licensee maintains coverage as
278 required under this act.

279 (4) A licensee who fails to file a renewal application on or
280 before its expiration must renew his or her license by fulfilling
281 the applicable requirements of subsection (3) and by paying a late
282 fee equal to the amount of the license fee.

283 (5) No license shall be renewed three (3) months or more
284 after its expiration date. The applicant shall submit a new,
285 complete application and the respective fees.

286 (6) A renewal applicant shall not perform any activity
287 regulated by this act between the date of expiration and the date
288 of renewal of his or her license.

289 **SECTION 11.** (1) In the event the licensee desires to cancel
290 his or her license, she or he shall notify the Secretary of State
291 in writing and return the license to the Secretary of State within
292 ten (10) days of the date of cancellation.

293 (2) The Secretary of State, at the written request of the
294 licensee, may place his or her license in inactive status. A
295 license may remain inactive for a period of three (3) years, at
296 the end of the three-year period, if the license has not been

297 renewed, it shall be automatically cancelled. If the license
298 expires during the inactive period, the licensee shall be required
299 to pay license fees and, if applicable, show proof of insurance
300 before the license can be made active. No late fees shall apply
301 when a license is in inactive status.

302 **SECTION 12.** (1) Only licensees may sponsor interns.

303 (2) An internship may not commence until the sponsor has
304 submitted to the Secretary of State the notice of intent to
305 sponsor. Such notice shall be on a form provided by the Secretary
306 of State.

307 (3) Internship is intended to serve as a learning process.
308 Sponsors shall assume a training status by providing direction and
309 control of interns. Sponsors shall only sponsor interns whose
310 place of business is within a fifty (50) mile distance of the
311 sponsor's place of business and shall not allow interns to operate
312 independently of such direction and control, or require interns to
313 perform activities which do not enhance the intern's
314 qualifications for licensure.

315 (4) No sponsor may sponsor more than six (6) interns at the
316 same time.

317 (5) A sponsor shall certify a biannual progress report on
318 each intern and shall certify completion or termination of an
319 internship to the Secretary of State within fifteen (15) days
320 after such completion or termination. The report must be made on
321 a form provided by the Secretary of State and must include at a
322 minimum:

323 (a) The inclusive dates of the internship;

324 (b) A narrative part explaining the primary duties,
325 types of experiences gained, and the scope of training received;
326 and

327 (c) An evaluation of the performance of the intern and
328 a recommendation regarding future licensure.

329 **SECTION 13.** There is created within the State Treasury a
330 special fund into which money required to be paid under this act
331 shall be collected by the Secretary of State and deposited in the
332 fund. The Legislature shall appropriate from the fund such
333 amounts as it deems necessary for the purpose of administering the
334 provisions of this act.

335 **SECTION 14.** (1) The following constitute grounds for which
336 disciplinary action specified in subsection (2) of this section
337 may be taken by the Secretary of State against any licensee,
338 agency or applicant regulated by this act, or any unlicensed
339 person engaged in activities regulated under this act.

340 (a) Fraud or willful misrepresentation in applying for
341 or obtaining a license.

342 (b) Use of any fictitious or assumed name by an agency.

343 (c) Being found guilty of or entering a plea of guilty
344 or nolo contendere to, regardless of adjudication, or being
345 convicted of a crime that directly relates to the recovery
346 business. A plea of nolo contendere shall create a rebuttable
347 presumption of guilt to the underlying criminal charges, and the
348 Secretary of State shall allow the individual being disciplined or
349 denied an application for a licensed to present any mitigating
350 circumstances surrounding his or her plea.

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

353 (e) A finding that the licensee or any employee is
354 guilty of willful betrayal of a professional secret or any
355 unauthorized release of information acquired as a result of
356 activities regulated under this act.

357 (f) Proof that the applicant or licensee is guilty of
358 fraud or deceit, or of negligence, incompetency, or misconduct, in
359 the practice of the activities regulated under this act.

360 (g) Conducting activities regulated under this act
361 without a license or with a revoked or suspended license.

362 (h) Failure of the licensee to maintain in full force
363 and effect the general liability insurance coverage required by
364 this act.

365 (i) Impersonating, or permitting or aiding and abetting
366 an employee to impersonate a law enforcement officer or an
367 employee of the state, the United States, or any political
368 subdivision thereof by identifying himself or herself as a
369 federal, state, county, or municipal law enforcement officer or
370 official representative, by wearing a uniform or presenting or
371 displaying a badge or credentials that would cause a reasonable
372 person to believe that he or she is a law enforcement officer or
373 that he or she has official authority, by displaying any flashing
374 or warning vehicular lights other than amber colored, or by
375 committing any act that is intended to falsely convey official
376 status.

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

380 (k) Knowingly violating, advising, encouraging or
381 assisting the violation of any statute, court order, warrant or
382 injunction, in the course of business regulated under this act.

383 (l) Transferring or attempting to transfer a license
384 issued pursuant to this act.

385 (m) Employing or contracting with any unlicensed or
386 improperly licensed person or agency to conduct activities
387 regulated under this act, or performing any act that assists,
388 aids, or abets a person or business entity in engaging in
389 unlicensed activity, when the licensure status was known or could
390 have been ascertained by reasonable inquiry.

391 (n) Failure or refusal to cooperate with or refusal of
392 access to an authorized representative of the Secretary of State
393 engaged in an official investigation pursuant to this act.

394 (o) Failure of any partner, principal corporate officer
395 or licensee to have his or her identification card in his or her
396 possession while on duty.

397 (p) Failure of any licensee to have his or her license
398 in his or her possession while on duty as required by this act.

399 (q) Failure or refusal by a sponsor to certify a
400 biannual written report on an intern or to certify completion or
401 termination of an internship to the Secretary of State within
402 fifteen (15) working days.

403 (r) Failure to report to the Secretary of State any
404 person whom the licensee knows to be in violation of this act or
405 the rules of the Secretary of State.

406 (s) Violating any provision of this act.

407 (t) Recovering a motor vehicle that has been sold under
408 a conditional sales agreement or under the terms of the chattel
409 mortgage before authorization has been received from the legal
410 owner or mortgagee.

411 (u) Charging for expenses not actually incurred in
412 connection with the recovery, transportation, storage or disposal
413 of a motor vehicle.

414 (v) Using any motor vehicle repossessed, or using
415 personal property obtained in a repossession, for the personal
416 benefit of a licensee or an officer, director, partner, manager or
417 employee of a licensee.

418 (w) Selling a motor vehicle under the provisions of
419 this act, except with written authorization from the legal owner
420 or the mortgagee thereof.

421 (x) Failing to remit money collected in lieu of
422 recovery of a motor vehicle, to the client within ten (10) working
423 days.

424 (y) Falsifying, altering or failing to maintain any
425 required inventory or records regarding disposal of personal

426 property contained in or on a recovered motor vehicle pursuant to
427 this act.

428 (z) Wearing, presenting or displaying a badge in the
429 course of repossessing a motor vehicle.

430 (2) When the Secretary of State finds any violation of
431 subsection (1) of this section, it may do one or more of the
432 following:

433 (a) Deny an application for the issuance or renewal of
434 a license.

435 (b) Issue a reprimand.

436 (c) Impose an administrative fine not to exceed One
437 Thousand Dollars (\$1,000.00) for every count or separate offense.

438 (d) Place the licensee on probation for a period of
439 time and subject to such conditions as the Secretary of State may
440 specify.

441 (e) Suspend or revoke a license.

442 (3) Notwithstanding the provisions of paragraph (1)(c) of
443 this section and subsection (2) of this section:

444 (a) If the applicant or licensee has been convicted of
445 a felony, the Secretary of State shall deny the application or
446 revoke the license unless and until civil rights have been
447 restored by the State of Mississippi or by a state acceptable to
448 Mississippi and a period of ten (10) years has expired since final
449 release from supervision.

450 (b) If the applicant or licensee has been found guilty
451 of, entered a plea of guilty to, or entered a plea of nolo
452 contendere to a felony and adjudication of guilt is withheld, the
453 Secretary of State shall deny the application or revoke the
454 license until a period of three (3) years has expired since final
455 release from supervision.

456 (c) A plea of nolo contendere shall create a rebuttable
457 presumption of guilt to the underlying criminal charges, and the
458 Secretary of State shall allow the person being disciplined or

459 denied an application for a license to present any mitigating
460 circumstances surrounding his or her plea.

461 (d) The grounds for discipline or denial cited in this
462 subsection shall be applied to any disqualifying criminal history
463 regardless of the date of commission of the underlying criminal
464 charge. Such provisions shall be applied retroactively and
465 prospectively.

466 (4) Upon revocation or suspension of a license, the licensee
467 shall forthwith return the license which was suspended or revoked.

468 (5) The recovery agency license and the approval or license
469 of each officer, partner or owner of the agency are automatically
470 suspended upon entry of a final order imposing an administrative
471 fine against the agency, until the fine is paid, if thirty (30)
472 calendar days have elapsed since the entry of the final order.

473 All owners and corporate or agency officers or partners are
474 jointly and severally liable for agency fines. Neither the
475 recovery agency license or the approval or license of any officer,
476 partner or owner of the agency may be renewed, nor may an
477 application be approved if the owner, licensee or applicant is
478 liable for an outstanding administrative fine imposed under this
479 act. An individual's approval or license becomes automatically
480 suspended if a fine imposed against the individual or his or her
481 agency is not paid within thirty (30) days after the date of the
482 final order, remains suspended until the fine is paid.

483 Notwithstanding the provisions of this subsection, an individual's
484 approval or license may not be suspended nor may an application be
485 denied when the licensee or the applicant has an appeal from a
486 final order pending in any appellate court.

487 (6) An applicant or licensee shall be ineligible to reapply
488 for the same class of license for a period of one (1) year
489 following the final agency action resulting in the denial or
490 revocation of a license applied for or issued under this act.

491 This time restriction shall not apply to administrative denials
492 wherein the basis for denial was:

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

495 (b) The experience documented by the Secretary of State
496 was insufficient at the time of application; or

497 (c) Failure to submit required fees.

498 **SECTION 15.** (1) Any person who violates any provision of
499 this act shall be guilty of a misdemeanor and punished as provided
500 in Section 99-19-31.

501 (2) Any person who is convicted of any violation of this act
502 shall not be eligible for licensure for a period of five (5)
503 years.

504 **SECTION 16.** The Secretary of State shall have the power to
505 enforce the provisions of this act, irrespective of the place or
506 location in which the violation occurred, and, upon the complaint
507 of any person or on its own initiative, to cause to be
508 investigated any suspected violation thereof or to cause to be
509 investigated the business and business methods of any licensed or
510 unlicensed person, agency or employee thereof, or applicant for
511 licensure under this act.

512 **SECTION 17.** (1) Any person, firm, company, partnership or
513 corporation which engages in business as a recovery agency shall
514 have a recovery agency license valid for only one (1) location.

515 (2) Each branch office of a recovery agency shall have a
516 recovery agency branch license.

517 (3) Any individual who performs the services of a manager
518 for a recovery agency or a branch office must have a recovery
519 agency manager license. A recovery agent licensee may be
520 designated as the manager, in which case the recovery agency
521 manager license is not required.

522 (4) Any individual who performs the services of a recovery
523 agent must have a license.

524 (5) Any individual who performs repossession as an intern
525 under the direction and control of a designated, sponsoring
526 recovery agent licensee or a recovery agent designated, sponsoring
527 licensee shall have a recovery agent intern license.

528 (6) Recovery agent or recovery agent intern licensees shall
529 own or be an employee of a recovery agency or branch office.

530 **SECTION 18.** (1) The Secretary of State shall establish by
531 rule biennial license fees which shall not exceed the following:

532	(a) Recovery agency license	\$450.00
533	(b) Recovery agency branch office license	125.00
534	(c) Recovery agency manager license	75.00
535	(d) Recovery agent license	75.00
536	(e) Recovery agent intern license	60.00

537 (2) The Secretary of State may establish by rule a fee for
538 the replacement or revision of a license, which fee shall not
539 exceed Thirty Dollars (\$30.00).

540 **SECTION 19.** (1) In addition to the license requirements set
541 forth in this act, each individual or agency shall comply with the
542 following additional requirements:

543 (a) Each agency or branch office must designate a
544 minimum of one (1) appropriately licensed individual to act as
545 manager, directing the activities of the recovery agent or
546 recovery agent intern employees. A recovery agent licensee may be
547 designated to act as manager of a recovery agency or branch office
548 in which case the recovery agent manager license is not required.

549 (b) An applicant for recovery agent manager license
550 shall have at least one (1) year of full-time experience as a
551 recovery agent licensee performing repossessions of motor
552 vehicles, mobile homes or motorboats.

553 (c) An applicant for a recovery agent license shall
554 have at least one (1) year of full-time experience in one, or a
555 combination of more than one, of the following:

556 1. repossession of motor vehicles.

557 2. Work as a recovery agent licensed intern.

558 SECTION 20. (1) If personal effects or other property not
559 covered by a security agreement are contained in or on a recovered
560 vehicle, at the time it is recovered, a complete and accurate
561 inventory shall be made of such personal effects or property. The
562 date and time the inventory is made shall be indicated, and it
563 shall be signed by the recovery agent or recovery agent intern
564 licensee who obtained the personal property. The inventory of the
565 personal property and the records regarding any disposal of
566 personal property shall be maintained for a period of two (2)
567 years in the permanent records of the licensed agency and shall be
568 made available, upon demand, to an authorized representative of
569 the Secretary of State engaged in an official investigation.

570 (2) Within five (5) working days after the date of a
571 repossession, the recovery agent or recovery agent intern licensee
572 shall give written notification to the debtor of the whereabouts
573 of personal effects or other property inventoried pursuant to this
574 section. At least forty-five (45) days prior to disposing of such
575 personal effects or other property, the recovery agent or recovery
576 agent intern licensee shall, by United States Postal Service,
577 proof of mailing or certified mail, notify the debtor of the
578 intent to dispose of said property. Should the debtor, or his or
579 her lawful designee, appear to retrieve the personal property,
580 prior to the date on which the recovery agent or recovery agent
581 intern licensee is allowed to dispose of the property, the
582 licensee shall surrender the personal property to that individual
583 upon payment of any reasonably incurred expenses for inventory and
584 storage. If personal property is not claimed within forty-five
585 (45) days of the notice of intent to dispose, the licensee may
586 dispose of the personal property at his or her discretion, except
587 that illegal items or contraband shall be surrendered to a law
588 enforcement agency, and the licensee shall retain a receipt or

589 other proof of surrender as part of the inventory and disposal
590 records she or he maintains.

591 **SECTION 21.** This act shall take effect and be in force from
592 and after July 1, 2004.