
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 515 **Hearing Date:** June 15, 2021
Author: Chen
Version: March 25, 2021
Urgency: No **Fiscal:** Yes
Consultant: KW

Subject: *Trespass*

HISTORY

Source: California Association of Licensed Repossessors

Prior Legislation: AB 1787 (Maddox), Ch. 149, Stats. 2000

Support: Riverside Sheriffs Association

Opposition: None known

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to grant repossession agencies the ability to enter private properties, without consent of the owner, when they are searching for collateral or repossessing collateral and requires the agency to leave the property immediately after the search is complete.

Existing law provides that it is a misdemeanor for entering and occupying real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession. (Pen. Code, § 602, subd. (m).)

Existing law exempts a process server, as defined in Section 22350 of the Business and Professions Code from specified trespass laws. (Pen. Code § 602, subd. (n).)

Existing law requires any person who makes more than 10 services of process within this state during one calendar year, for specific compensation or in expectation of specific compensation, where that compensation is directly attributable to the service of process, shall file and maintain a verified certificate of registration as a process server with the county clerk of the county in which he or she resides or has his or her principal place of business. (Bus. & Prof. Code § 22350, subd. (a).)

Existing law defines "repossession agency" to mean and includes any person who, for any consideration whatsoever, engages in business, or accepts employment to locate or recover collateral, whether voluntarily or involuntarily, including, but not limited to collateral registered under the provisions of the Vehicle Code, which is subject to a security agreement, except as specified. (Bus. & Prof. Code, § 7500.2.)

Existing law states that no person shall engage in the activities of a repossession agency unless the person holds a valid repossession agency license or is exempt from licensure, as provided. (Bus. & Prof. Code, § 7502.)

Existing law requires a licensee to serve a debtor with notice of seizure as soon as possible within specified time periods and requires specified information to be included in the notice such as contact information of the legal owner and the repossession agency. (Bus. & Prof. Code, § 7507.10.)

This bill allows a repossession agency, and its employees to enter private property, not open to the public, and without the consent of the owner when they are searching for collateral or repossessing collateral, and upon completing the search, leave the private property immediately.

COMMENTS

1. Need for This Bill

According to the author of this bill:

Existing law makes it a misdemeanor to commit a trespass by engaging in specified acts, without the consent of the owner, the owner's agent, or the person in lawful possession (Penal Code § 602), except when making a lawful service of process (PC § 602 (n)), as prescribed.

When a debtor has failed to repay their debt, the legal owner who holds the note collateral may issue a repossession order. The law provides that under the repossession order, a repossession agency or its employee may come to the property to reclaim the purchase that has fallen into default. (Business and Professions Code §§ 7500 ff.)

However, in the midst of this process, debtors will often call the police, claiming the repossession agency is trespassing onto their property in an attempt to prevent the order from being completed.

As a result, the repossession agency gets erroneously arrested and required to go to court for "trespassing" only for the case to get dismissed at the hearing. Due to the repossession agency's arrest, they now have criminal arrest history for simply doing their job.

2. Clarifying Trespassing Laws for Repossession Agencies

AB 515 clarifies that the punishments listed in the existing law do not apply to repossession agencies and their employees when they are collecting collateral on a private property.

Existing law allows repossession agencies one minute to leave the property upon completion of a search, this bill would require them to leave immediately.

3. Arguments in Support

According to the bill's sponsor, California Association of Licensed Repossessors, in a letter of support:

This bill addresses the problem that occurs when a reposessor with a repossession order enters private property to repossess collateral and the debtor calls the police claiming that a reposessor is trespassing onto their property in an attempt to prevent the order from being completed. This has been an issue when a vehicle is being repossessed, and the car is sitting in an open and unsecured driveway. This problem also occurs when solar panels are repossessed and has become a growing issue as solar installations increase. The reposessor is on the roof removing the panels and the consumer takes the ladder and calls the police, claiming the reposessor is trespassing.

In such cases it becomes a dispute of conflicting accounts that the police must deal with. As a result, the reposessor may be erroneously arrested and required to go to court for "trespassing" only for the case to get dismissed at the hearing. Due to the reposessor's arrest, they now have criminal arrest history for simply doing their job.

The solution would be to clarify the trespass provisions in Section 602 of the Penal Code. The clarification would be the same as the exemption for registered process servers and requires the reposessor to leave the property immediately upon completing the search or repossessing the collateral.

-- END --