

April 16, 2024

The Honorable Ash Kalra
Chair, Assembly Judiciary Committee
1020 O Street
Sacramento, CA 95814

RE: AB 2228 (Villapudua)- OPPOSE UNLESS AMENDED

Dear Assemblymember Kalra:

On behalf of the American Financial Services Association (AFSA) and the California Financial Services Association (CFSA), I am writing to express their oppose unless amended positions on AB 2228 pertaining to auto repossessions. While AFSA and CFSA are supportive of the author's effort to simplify communication obligations relating to consumer personal property found in a vehicle following a repossession, they are opposed to language that seemingly allows California repossession agencies to collect an unlimited fee from consumers as a condition of returning their personal property.

Personal property is property located in a repossessed vehicle, but not covered by a security agreement. The practice of refusing to return personal property subject to the payment of any fee is prohibited and constitutes a violation of federal consumer law (*12 U.S.C. 5536*). The proposed language however authorizes any amount to be charged in connection with the recovery of personal property, contrary to federal law and to the best interest of consumers. Specifically, language provides that "*Any charges...shall not be determined by any entity other than the repossession agency.*" The proposed language also requires that the amount of the fee is protected as "confidential information," which prohibits our member organizations from conducting the oversight required under the Dodd Frank Act (*Public Law 111-203*).

Finance companies have no ownership interest in personal property which may be located inside a vehicle at the time of repossession, and they do not have the authority to grant any ownership interest in any property not covered by a security agreement. Additionally, finance companies are required to comply with the terms of the consumer contract underlying the consumer credit transaction, which may also prohibit the fees in question. Under the proposed legislation, finance companies would be unable to protect customers against unlawful charges, potential discrimination, and other unfair/deceptive acts related to their personal property. Customers could face significant potential harm in circumstances where their personal property is withheld or disposed of because of their inability to pay fees or delays in locating their property.

The proposed legislation ostensibly claims to ensure “that repossession agencies are not violating state and federal laws by disclosing confidential information”, while it actually creates significant consumer harm and regulatory concern due to its direct conflict with federal law. On behalf of AFSA and CFSA, I strongly urge you to amend the language proposed in AB 2228 by removing the proposed additions/modifications to statutes concerning consumer personal property, including the fees charged in relation to that property and any new confidentiality requirements therein.

Sincerely,

Scott Govenar

cc: Honorable Members: Assembly Judiciary Committee
The Honorable Carlos Villapadua