

RECOVERY AGENT HANDBOOK



**Florida Department of
Agriculture and Consumer Services**

Adam H. Putnam, Commissioner



Florida Department of Agriculture and Consumer Services

A message from the Commissioner:

In obtaining a Florida license as a recovery agent, you enter a profession that provides a valuable service to the financial community. The Department of Agriculture and Consumer Services, Division of Licensing, has the legal duty to regulate the recovery industry in this state. In carrying out that duty, the Division has authority to investigate any violation of Chapter 493, Florida Statutes, the law governing the recovery profession.

The courts have found that a professional license is a privilege, not a right. Violations may result in denial of an application, fines and the suspension or revocation of a license granting that privilege. Knowledge of the law reduces the probability of violating it. This handbook is provided to assist licensees and agencies in that knowledge. I hope it will be helpful to you.

If you have any questions, the Division of Licensing staff will be happy to assist you.

Sincerely,

Adam H. Putnam
Commissioner

IMPORTANT

This document, which is published in accordance with section 493.6123(2), Florida Statutes, details in plain language the legal authority, rights, and obligations of licensees. Citations to statute and to Florida Administrative Code are included in this document so that readers may consult these sources to review the precise language presented in law and rule.

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RECOVERY GUIDELINES

I. LAW - Chapter 493, Florida Statutes

The following explanations of the law are intended to assist applicants and licensees in understanding the basic requirements and restrictions of Chapter 493, Florida Statutes. Please note that this handbook does not constitute the entirety of the law. Individuals seeking a more comprehensive understanding of the law are directed to carefully read and study Chapter 493, Florida Statutes, as well as Chapter 5N-1, Florida Administrative Code.

II. REGULATED ACTIVITY – Repossession

Definition – The recovery of a motor vehicle as defined under s.320.01(1), a mobile home as defined in s.320.01(2), a motorboat as defined under s.327.02, an aircraft as defined in s.330.27(1), a personal watercraft as defined in s.327.02, an all-terrain vehicle as defined in s.316.2074, farm equipment as defined under s.686.402, or industrial equipment, by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, that which has been sold or leased under a security agreement that contains a repossession clause. As used in this subsection, the term “industrial equipment” includes, but is not limited to, tractors, road rollers, cranes, forklifts, backhoes, and bulldozers. The term “industrial equipment” also includes other vehicles that are propelled by power other than muscular power and that are used in the manufacture of goods or used in the provision of services. A repossession is complete when a licensed recovery agent is in control, custody, and possession of such repossessed property. Property that is being repossessed shall be considered to be in the control, custody, and possession of a recovery agent if the property being repossessed is secured in preparation for transport from the site of the recovery by means of being attached to or placed on the towing or other transport vehicle or if the property being repossessed is being operated or about to be operated by an employee of the recovery agency.

Section 493.6101(22), F.S

III. TYPES OF LICENSES

a. Recovery Agent – Class “E” license – Any individual who performs repossession services must have a Class “E” Recovery Agent license and must be employed by or own a licensed Class “R” Recovery Agency or Class “RR” Branch Office. Class “E” licensees may not engage in repossession services except through a licensed agency. Class “E” licensees may not subcontract.

Sections 493.6401(4) and (6), F.S.

“In-House” reposseors see Section IV.

Example: A licensed Class “E” Recovery Agent or Class “EE” Recovery Agent Intern employed by a licensed recovery agency cannot solicit or accept fees for repossession of vehicles from a used car dealer or lienholder independent of his or her licensed agency.

b. Recovery Agent Intern – Class “EE” license – Any individual who performs repossession services as an intern under the direction and control of a designated sponsoring Class “E” licensee or designated sponsoring Class “MR” licensee. Class “EE” licensees may not engage in repossession activities except through a licensed agency. Class “EE” licensees may not subcontract; they must work for a Class “R” agency or “RR” branch office.

Section 493.6401(5), F.S.

c. Recovery Agency – Class “R” license – Any person, firm, company, partnership or corporation which engages in business as a recovery agency must possess a Class “R” license. A Class “R” license is valid for only one location. A Class “R” agency cannot subcontract with a Class “E” Recovery Agent or Class “EE” Recovery Agent Intern, but that agency may subcontract with other licensed recovery agencies. Agencies must notify the Division of any changes in officers, ownership or location.

Agency licenses that reflect incorrect information due to such changes are in violation of Chapter 493, F.S.

Sections 493.6401(1) and 493.6112(1), F.S.

d. Branch Office – Class “RR” license – Each branch office of a Class “R” agency shall have a Class “RR” license.

Section 493.6401(2), F.S.

e. Agency Managers – Class “MR” license – Any individual who performs the services of a manager for a Class “R” Recovery Agency or a Class “RR” Branch Office must have a Class “MR” Recovery Agency Manager license. A Class “E” licensee may be designated as a manager in lieu of the Class “MR” licensee. Class “MR” licensees cannot subcontract; they must work for a Class “R” Recovery Agency.

Section 493.6401(3), F.S.

Example: The owner of a Class “R” Recovery Agency who is licensed as a Class “E” Recovery Agent may designate himself or herself as the agency manager and is not required to possess a Class “MR” license.

Example: An owner of a Class “R” Recovery Agency may designate a Class “E” licensee as manager of the Class “R” agency or a Class “RR” branch office.

Each agency or branch office shall designate a minimum of one appropriately licensed individual to act as manager, directing the activities of the Class “E” and/or Class “EE” employees.

f. Recovery Agent School Instructor – Class “RI” license – A person who teaches or instructs at a Class “RS” Recovery Agent School or Training Facility must have a Class “RI” license. Instructors who are full-time faculty members and who teach exclusively for public educational facilities are exempt from this requirement.

Section 493.6401(8), F.S.

g. Recovery Agent School – Class “RS” license – Any school or training facility which teaches or instructs applicants for Class “E” or “EE” licensure shall have a Class “RS” license. Class “RS” facilities can offer qualifying training to students in a number of ways: in a traditional classroom setting, through an online course made available via the Internet, or through a home study-correspondence training course.

Section 493.6401(7), F.S.

h. Unless the license is suspended or revoked by the Division of Licensing, licenses are valid for 2 years, except for the Class “R” Recovery Agency license and the Class “RR” agency branch license, which are valid for 3 years. The licensee is responsible for renewing his or her license on time. Although the Division sends the licensee a renewal notice approximately 120 days prior to the expiration date of the license, the licensee is ultimately responsible for renewing his or her license in a timely manner even if the renewal notice was not received.

Sections 493.6111(2) and 493.6113, F.S.

i. The Class “E” Recovery Agent licensee, Class “EE” Recovery Agent Intern licensee, or Class “MR” Recovery Agent Manager licensee must be in possession of his or her license while engaged in regulated activities.

Sections 493.6111(1), F.S.

IV. INAPPLICABILITY OF CHAPTER 493 F.S.

a. Any bank or bank holding company, credit union, or small loan company operating pursuant to chapters 516 and 520; any consumer credit reporting agency regulated under 15 U.S.C. ss.1681 et seq.; or any collection agency not engaged in repossessions or to any permanent employee thereof.

Section 493.6102(7), F.S.

Example: An individual who has an employer-employee relationship with a credit union or small loan company operating

pursuant to chapters 516 and 520 must be licensed to repossess for anyone other than his or her employer.

b. Certified law enforcement officers who engage in repossession services off-duty are NOT exempt from the licensure requirements and must possess a Class “E” or Class “EE” license and be employed by a Class “R” agency.

Section 493.6102(1), F.S.

V. TRAINING REQUIREMENTS

a. An applicant for a Class “E” Recovery Agent license must have at least one (1) year of lawfully gained, verifiable full-time experience in repossession activity or as a Class “EE” Recovery Agent Intern or a total of one (1) year in a combination of both. Lawful in-house experience, even though unlicensed, is creditable.

Section 493.6403(1)(c), F.S.

Example: An applicant for Class “E” licensure cannot use experience as an unlicensed independent contractor because it would not have been lawfully gained and would have been in violation of Chapter 493.

b. An applicant for a Class “E” or “EE” license must have a minimum of forty (40) hours of professional training at a school or training facility licensed by the department. Licensed training facilities must teach, at a minimum, the curriculum prescribed by the Division of Licensing.

Section 493.6403(2), F.S.

c. An applicant for a Class “RI” Recovery School Instructor license shall have the following qualifications:

- ✓ Eighteen (18) years old;
- AND
- ✓ High school graduate or a GED recipient;
- AND

- ✓ Licensed as a Class “E” Recovery Agent for at least three (3) years within the 5-year period immediately preceding application;
OR
- ✓ A bachelor’s, master’s, or doctorate degree from a college or university with a major course of study in education, finance, criminology, criminal justice, police science, law or other course of study related to law enforcement or financial management;
OR
- ✓ Current licensure as a Class “MR” Recovery Agency Manager and have been so licensed for not less than one (1) year.

Rule 5N-1.138, F. A. C.

VI. SPONSORSHIP OF INTERNS

- a. Only a Class “E” or Class “MR” licensee may sponsor a Class “EE” Recovery Agent Intern.
- b. An internship may not commence until the intern is licensed, or has submitted a completed application, and the sponsor has submitted the notice of intent to sponsor to the department. Such notice shall be on a form provided by the department.
- c. Internship is intended to serve as a learning process. Sponsors shall assume a training status by providing direction and control of interns. Sponsors shall not allow interns to operate independently of such direction and control, or require interns to perform activities that do not enhance the intern’s qualification for licensure. Interns must perform regulated duties within the boundaries of this state during the period of internship.
- d. A Class “E” or “MR” licensee may not sponsor more than six (6) interns at the same time.

e. A sponsor shall certify completion or termination of an internship to the department within fifteen (15) days of such occurrence. The certification shall be on a form provided by the department.

f. A sponsor shall certify a biannual progress report on each intern. The report shall be made on a form provided by the department.

Sections 493.6116(1) - (5), F.S.

VII. FIREARMS

The law prohibits a licensed recovery agent or a licensed recovery agent intern from carrying a firearm on his or her person while on private property and in the course of repossession activities. This restriction applies even if the licensee possesses a Class “G” Statewide Firearm license by virtue of other licensure under Chapter 493, Florida Statutes, or a Concealed Weapon or Firearm License issued pursuant to Section 790.06, Florida Statutes.

Section 493.6118(1)(x) 9., F.S.

Example: A licensed recovery agent carrying out a repossession in a debtor’s driveway carries a firearm for protection from potential assault. His or her license is revoked for misconduct.

Example: A licensed recovery agent in the course of repossessing a vehicle in the parking lot of an insurance agency fires a warning shot to deter physical assault by the debtor. His or her license is revoked for misconduct.

VIII. USE OF FORCE

a. Licensed recovery agents or recovery agent interns are lawfully authorized to repossess property only so long as there is no breach of the peace. A breach of the peace may occur when someone verbally or physically objects to a recovery in progress.

Section 679.609, F.S.

b. To avoid a breach of the peace, a recovery agent should retreat from a recovery when there is a confrontation.

Section 493.6118(1)(j), F.S.

Example: The debtor's neighbor confronts the recovery agent in the debtor's driveway while the car is being hooked to the agent's tow truck. While the agent calmly informs the neighbor of his or her legal rights to repossess the vehicle, the neighbor becomes irrational and begins yelling at the agent. The agent should retreat from the repossession and try another time.

c. A licensee who is unable to retreat may use only the force necessary to lawfully protect himself or herself or another from physical harm.

Section 493.6118(1)(j), F.S.

Example: A licensed recovery agent who is suddenly and unexpectedly attacked by family members of the debtor and is unable to retreat, reasonably defends himself. No action is taken by the department.

IX. IDENTIFICATION CARDS

a. Every licensed recovery agency must furnish to its partners, principal corporate officers, and all licensed employees an identification card with the name and license number of the holder of the card and name and license number of the agency. The identification card must be signed by the individual licensee and a representative of the agency. The identification card must be in the possession of the licensee at all times while engaged in regulated activity.

Section 493.6111(5), F.S.

b. Agency identification cards are issued solely for the purpose of identifying the licensee and his or her employer. The use of the state seal or the terms "State of Florida", "Department of Agriculture and Consumer Services", or "Division of Licensing" are forbidden. Such terms are often misinterpreted as implying

the bearer has some official status.

Section 493.6118(1)(i), F.S.

X. APPLYING FOR A LICENSE

a. Any person applying for a license must be at least eighteen (18) years of age; be a citizen of the United States or a legal resident of the United States or have been granted authority to work by the U.S. Citizenship and Immigration Services (USCIS); have no disqualifying criminal history; be of good moral character; have no history of mental illness or history of use of illegal drugs or alcoholism, unless evidence is presented showing successful completion of a rehabilitation program, or current mental competency, as appropriate.

Section 493.6106, F.S.

The applicant must provide the following: name, date of birth, Social Security number*, place of birth, a statement of all criminal convictions (including dispositions of adjudication withheld), a statement whether he or she has been adjudicated incapacitated or committed to a mental institution, a statement regarding any history of illegal drug use or alcohol abuse, one (1) full-face color photograph, a full set of prints on the division's fingerprint card or submitted electronically via LiveScan, a personal inquiry waiver and the appropriate fees.

*Sections 493.6105, 493.6304, and 493.6406, Florida Statutes (F. S.), in conjunction with section 119.071(5)(a)2, F. S., mandates that the Department of Agriculture and Consumer Services, Division of Licensing, obtain social security numbers from applicants. Applicant social security numbers are maintained and used by the Division of Licensing for identification purposes, to prevent misidentification, and to facilitate the approval process by the Division. The Department of Agriculture and Consumer Services, Division of Licensing, will not disclose an applicant's social security number without consent of the applicant to anyone outside of the Department of Agriculture

and Consumer Services, Division of Licensing, or as required by law. [See Chapter 119, F. S., 15 U.S.C. ss. 1681 et seq., 15 U.S.C. ss. 6801 et seq., 18 U.S.C. ss. 2721 et seq., Pub. L. No. 107-56 (USA Patriot Act of 2001), and Presidential Executive Order 13224.]

Section 493.6105(3), F.S.

Any non-U.S. citizen who applies for a license under Chapter 493 must submit proof of current employment authorization issued by the U. S. Citizenship and Immigration Services (USCIS).

Section 493.6106(1)(f), F.S.

b. An applicant for a Class “EE” Recovery Agent Intern license must be sponsored by a Class “E” or “MR” licensee. The sponsor must submit a notice of intent to sponsor for each Class “EE” licensee under his direction or control.

Section 493.6116, F.S.

See also Section VI in this Handbook.

c. The initial application fee for a veteran, as defined in s. 1.01, shall be waived if he or she applies for a Class “C,” Class “CC,” Class “DI,” Class “E,” Class “EE,” Class “K,” Class “M,” Class “MA,” Class “MB,” Class “MR,” or Class “RI” license within 24 months after being discharged from a branch of the United States Armed Forces. An eligible veteran must include a copy of his or her DD Form 214, as issued by the United States Department of Defense, or another acceptable form of identification as specified by the Department of Veterans’ Affairs with his or her application in order to obtain a waiver.

Section 493.6105(1)(c), F.S.

d. A criminal history record check is performed by the Florida Department of Law Enforcement and Federal Bureau of Investigation via examination of the applicant’s fingerprints. The results of the record check are provided to the Division of Licensing to determine if the applicant has disqualifying criminal history.

Section 493.6108(1), F.S.

e. A licensee may conduct lawful repossessions anywhere in the state without obtaining any other license, permit, registration, or identification card that may be required by local ordinance or resolution. However, agencies may be required to obtain city or county occupational licenses.

Section 493.6107(5), F.S.

f. The licensee is required to notify the Division of Licensing within 10 days of a change to his or her residence and/or mailing address.

Sections 493.6106(3), F.S.

XI. CONFIDENTIALITY

The residence telephone number and residence address of any Class “C”, Class “CC”, Class “E”, or Class “EE” licensee maintained by the department is confidential and exempt from the provisions of Section 119.071(1), F.S., except that the department may provide this information to local, state, or federal law enforcement agencies. When the residence telephone number or residence address of such licensee is, or appears to be, the business telephone number or business address, this information shall be public record.

Section 493.6122, F.S.

XII. CANCELLATION/INACTIVATION OF LICENSE

a. In the event the licensee desires to cancel his or her license, he or she shall notify the department in writing and return the license to the department within ten (10) days of the date of cancellation.

b. The department, at the written request of the licensee, may place his or her license in inactive status. A license may remain inactive for a period of three (3) years, at the end of which time it shall automatically be cancelled if the license has not been renewed. If the license expires during the inactive period, the licensee shall be required to pay license fees before the license

can be made inactive. No late fees shall apply when a license is in inactive status.

Section 493.6114, F.S.

XIII. REPOSESSION ACTIVITIES

a. Class “E” Recovery Agents and Class “EE” Recovery Agent Interns are required to be physically present on the scene of a repossession. It is a violation of the law to allow, encourage or direct any unlicensed person to carry out a repossession for a recovery agency, recovery agent or intern. The licensed recovery agent or intern is required to be present to assure a repossession is carried out in a lawful manner and to respond to law enforcement inquiries or other situations that may arise.

Example: A Class “EE” Recovery Agent Intern arranges for a mobile home transport company to remove a mobile home from its lot. The transport company removes the mobile home and notifies the intern of its location. The intern is disciplined by the department for failure to be physically present at the scene and in charge of the repossession.

b. Repossessions, whether voluntary or involuntary, require the services of a licensed recovery agent or intern. Chapter 493 does not recognize any difference between voluntary or involuntary repossessions.

c. Recovery agents and recovery agent interns may use the services of a towing service provided the licensee is physically present at the time of the repossession. The licensee must remain with the repossessed property until it is under his or her complete control, custody, and possession.

Section 493.6101(21) and (22), F.S.

Example: A licensed recovery agent has an unlicensed helper drive a repossessed vehicle from the point of repossession to his or her storage lot. The recovery agent fails to maintain contact with the repossessed vehicle to the storage lot, and as

a result, the unlicensed helper is stopped by law enforcement and arrested on suspicion of auto theft. The charges against the helper are dropped by law enforcement. The licensed recovery agent was disciplined by the department for misconduct for failure to maintain contact with the repossessed vehicle until such time as full control, custody, and possession was assured by placement in a storage area.

XIV. INVENTORY OF PERSONAL EFFECTS OR PROPERTY

a. Licensees are personally responsible for the complete and accurate inventory and storage of all personal effects and property found in any repossessed motor vehicle, mobile home, motorboat, aircraft, personal watercraft, all-terrain vehicles, farm equipment or industrial equipment, etc. That duty cannot lawfully be subcontracted regardless of the requirements of the client. Contractual arrangements with clients must assure compliance with the law.

b. The inventory listing shall be signed by the licensed recovery agent or recovery agent intern who obtained the personal property. The date and time of the inventory must be indicated.

c. The inventory of the personal property and the records regarding any disposal of personal property shall be maintained for a period of two (2) years in the permanent records of the licensed recovery agency and shall be made available, upon demand, to any representative of the department engaged in an official investigation.

Section 493.6404(1), F.S.

d. Within five (5) working days after a repossession, the Class “E” or “EE” licensee must give written notice to the debtor of the location of personal items and the procedure for reclaiming them.

e. At least forty-five (45) days prior to disposing of such

personal effects or other property, the recovery agent or recovery agent intern shall notify the debtor of his or her intent to dispose of such property by United States Postal Service proof of mailing or certified mail.

f. If a debtor or his or her lawful designee appears to claim personal property prior to its disposal, such property must be returned upon the payment of any reasonably incurred expenses for inventory and storage.

g. If personal property is not claimed within forty-five (45) days of the notice of intent to dispose, the licensee may dispose of the personal property at his or her discretion, except illegal items or contraband shall be surrendered to a law enforcement agency, and the licensee shall retain a receipt or other proof of surrender as part of the inventory and disposal records. When items are donated to charitable or private organizations, receipts verifying such donations shall be maintained in the file.

h. Motor vehicle license tags issued to the debtor are the personal property of the debtor and must be inventoried, stored, and returned like other personal property.

Section 493.6404(2), F.S.

i. The terms “personal effects” and “personal property” in the context of a repossession means personal items found in or on a repossessed vehicle, mobile home, motorboat, aircraft, personal watercraft, all-terrain vehicle, farm equipment or industrial equipment, etc., which were not a part of the repossessed unit at the time of purchase or lease and which have not been installed in, or attached to, the repossessed unit.

Section 493.6404(1), F.S.

XV. SALE OF MOTOR VEHICLE, MOBILE HOME, MOTORBOAT, AIRCRAFT, PERSONAL WATERCRAFT, ALL-TERRAIN VEHICLES, FARM EQUIPMENT, OR INDUSTRIAL EQUIPMENT, ETC., BY

LICENSEE

a. A Class “E” or Class “EE” licensee shall obtain, prior to sale, written authorization and a negotiable title from the owner or the lienholder to sell any repossessed motor vehicle, mobile home, motorboat, aircraft, personal watercraft, all-terrain vehicles, farm equipment or industrial equipment, etc.

Sections 493.6405(1) and 493.6101(22), F.S.

b. A Class “E” or Class “EE” licensee shall send the net proceeds from the sale of such repossessed motor vehicle, mobile home, motorboat, aircraft, personal watercraft, all-terrain vehicles, farm equipment or industrial equipment, etc., to the owner or lienholder within twenty (20) working days after the licensee executes the documents that permit the transfer of legal ownership to the purchaser.

Section 493.6405(2), F.S.

c. A person who violates a provision of Section 493.6405, F.S. commits a felony of the third degree.

Section 493.6405(3), F.S.

XVI. PROHIBITED ACTS INCLUDE, BUT ARE NOT LIMITED TO:

a. Fraud or willful misrepresentation in applying for or obtaining a license.

Section 493.6118(1)(a), F.S.

b. Use of any fictitious or assumed name by an agency unless the agency has Division of Licensing approval and has registered that name with Department of State, Division of Corporations pursuant to Section 865.09, F.S.

Section 493.6118(1)(b), F.S.

c. Being found guilty of or entering a plea of guilty or *nolo contendere* to, regardless of adjudication, or being convicted of a crime which directly relates to the business for which the license is held or sought. A plea of *nolo contendere* shall create

a rebuttable presumption of guilt to the underlying criminal charges, and the department shall allow the individual being disciplined or denied an application for a license to present any mitigating evidence relevant to the reason for, and the circumstances surrounding, his or her plea.

Section 493.6118(1)(c), F.S.

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

Section 493.6118(1)(d), F.S.

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

Section 493.6118(1)(e), F.S.

f. Proof that the applicant or licensee is guilty of fraud or deceit, or of negligence, incompetency, or misconduct in the practice of the activities regulated under Chapter 493.

Section 493.6118(1)(f), F.S.

g. Conducting activities regulated under Chapter 493 without a license or with a revoked or suspended license.

Section 493.6118(1)(g), F.S.

h. Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or an employee of the state, the United States, or any political subdivision thereof by identifying himself or herself as a federal, state, county, or municipal law enforcement officer or official representative, by wearing a uniform or presenting or displaying a badge or credentials that would cause a reasonable person to believe that he or she is a law enforcement officer or that he or she has official authority, by displaying any flashing or warning vehicular lights other than amber-colored lights, or

by committing any act that is intended to falsely convey official status.

Section 493.6118(1)(i), F.S.

Example: Wearing, presenting, or displaying a badge during the course of repossession.

i. Commission of an act of violence or the use of force on any person except in the lawful protection of one's self or another from physical harm.

Section 493.6118(1)(j), F.S.

j. Knowingly violating, advising, encouraging, or assisting the violation of any statute, court order, capias, warrant, injunction, or cease and desist order, in the course of business regulated under Chapter 493, F.S.

Section 493.6118(1)(k), F.S.

k. Transferring or attempting to transfer a license issued pursuant to Chapter 493.

Section 493.6118(1)(m), F.S.

l. Employing or contracting with any unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter when such licensure status was known or could have been ascertained by reasonable inquiry.

Section 493.6118(1)(n), F.S.

m. Failure or refusal to cooperate with or refusal of access to an authorized representative of the department engaged in an official investigation pursuant to Chapter 493.

Section 493.6118(1)(o), F.S.

n. Failure of any partner, principal corporate officer, or licensee to have his or her agency identification card in his or her possession while on duty.

Section 493.6118(1)(p), F.S.

o. Failure of any licensee to have his or her license in his or her possession while on duty, as specified in Section 493.6111(1),

F.S.

Section 493.6118(1)(q), F.S.

p. Failure or refusal by a sponsor to certify completion or termination of an internship to the department within 15 working days.

Section 493.6118(1)(r), F.S.

q. Failure to report to the department any person whom the licensee knows to be in violation of this chapter or the rules of the department.

Section 493.6118(1)(s), F.S.

r. Violating any provision of Chapter 493.

Section 493.6118(1)(t), F.S.

s. Felony convictions unless ten (10) years have expired since final release from supervision and civil rights have been restored by the state or jurisdiction of conviction.

Section 493.6118(4)(a), F.S.

t. Being found guilty of, entering a plea of guilty to, or entering a plea of *nolo contendere* to a felony and adjudication of guilt is withheld until a period of three (3) years has expired since final release from supervision.

Section 493.6118(4)(c), F.S.

u. In addition to the other guidance provided by Chapter 493, Section 493.6118(1)(x), F.S., specifically prohibits recovery agents and recovery agent interns from:

1. Recovering a motor vehicle, mobile home, motorboat, aircraft, personal watercraft, all-terrain vehicle, farm equipment, or industrial equipment that has been sold under a conditional sales agreement or under the terms of a chattel mortgage before authorization has been received from the legal

owner or mortgagee;

2. Charging for expenses not actually incurred in connection with the recovery, transportation, storage, or disposal of repossessed property or personal property obtained in a repossession;

3. Using any repossessed property or personal property obtained in a repossession for the personal benefit of the licensee or officer, director, partner, manager, or employee of a licensee;

Example: The owner of a licensed recovery agency uses a repossessed semi-truck and trailer to transport repossessed vehicles to a sale for his or her clients without the lienholder's approval. Licensee is disciplined for misconduct.

4. Selling property recovered under the provisions of Chapter 493 except with written authorization from the legal owner or the mortgagee thereof;

5. Failing to notify the police or sheriff's department of the jurisdiction in which the repossessed property is recovered within two (2) hours after recovery;

6. Failing to remit moneys collected in lieu of recovery of a motor vehicle, mobile home, motorboat, aircraft, personal watercraft, all-terrain vehicle, farm equipment, or industrial equipment to the client within ten (10) working days;

7. Failing to deliver to the client a negotiable instrument that is payable to the client, within ten (10) working days after receipt of such instrument.

8. Falsifying, altering, or failing to maintain any required inventory or records regarding disposal of personal property contained in or on repossessed property pursuant to s.493.6404(1);

9. Carrying a weapon or firearm while on private property

and performing repossession activities;

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

Example: A licensed recovery agent becomes aware of the location of a multi-million dollar yacht being sought by a Texas lender. Recovery agent contacts lender and offers to recover the yacht for a \$100,000 fee when his or her fee would normally be substantially less. Recovery agent is disciplined by having his or her license revoked and is charged criminally with extortion.

XVII. RECOVERY VEHICLES

a. Vehicles used by recovery agencies while conducting repossessions must display ONLY amber lights. The use of any other colors, such as blue, red, or green, is prohibited.

Section 316.2397, F.S.

b. Recovery vehicles must be identified by display of the Class “R” Recovery Agency license number only. The agency license number must appear on both sides of the vehicle in lettering that is not less than four (4) inches tall and in a color that contrasts with the vehicle color.

Section 493.6404(3), F.S.

c. Information other than the license number which identifies a recovery vehicle as such is prohibited. Local ordinances which require further identifying information on a recovery vehicle engaged in repossession are preempted by state statute.

Section 493.6404(3), F.S.

XVIII. BADGES

a. Florida law establishes that five-pointed star badges are reserved for wear by sheriffs and deputy sheriffs in this state.

Any badge or insignia of such similarity to the official sheriff's badge which is indistinguishable at a distance of twenty (20) feet is prohibited for use by individuals licensed under Chapter 493, F.S.

b. Licensed recovery agents and recovery agent interns should be especially aware that the use of any badge in the course of a repossession activity creates a very strong suggestion of impersonation of a law enforcement officer, an act that would constitute misconduct in the course of regulated activities. ONLY the agency identification card and the Class "E" or "EE" license are needed for identification purposes while on the job.

Sections 30.46, 493.6118(1)(i), and 843.085, F.S.

XIX. AGENCY ADVERTISEMENTS REQUIRE LICENSE NUMBER

A licensed agency must include its agency license number in any advertisement in any print medium or directory, and must include its agency license number in any written bid or offer to provide services.

Section 493.6111(6), F.S.

Example: An agency's license number must be included in bids, Yellow Page listings, trade journals, etc. Employment advertising does not require the agency license number.

XX. USE OF STATE SEAL PROHIBITED

No agency or licensee may use the Great Seal of the State of Florida on any badge, patch, credential, identification card, correspondence, advertisement, business card, or any other means of identification used in connection with investigative services.

Section 493.6124, F.S.

XXI. UNLAWFUL SYMBOLS OF AUTHORITY

The unauthorized exhibition, wear or display of any indicia of authority including any badge, insignia, emblem, identification card, uniform or any colorable imitation thereof which could deceive a reasonable person into believing that such item is authorized by a law enforcement agency or the bearer is a law enforcement officer is prohibited. All non-official persons and agencies are prohibited from the use of the words “police”, “patrolman”, “agent”, “sheriff”, “deputy”, “trooper”, “highway patrol”, “Wildlife Officer”, “Marine Patrol Officer”, “state attorney”, “public defender”, “marshal”, “constable”, or “bailiff” when the use of such words or combinations thereof could deceive a reasonable person into believing that such person or agency is a law enforcement officer or agency.

Recovery agencies should also be made aware that vehicles marked in such a color or manner to resemble local law enforcement agencies may result in a possible violation for misconduct.

Sections 843.085 and 493.6118(1)(i), F.S.

XXII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

a. The Department of Agriculture and Consumer Services, Division of Licensing, is charged with the duty of regulating the recovery industry and has authority over both licensed and unlicensed persons and businesses engaged in repossession activity. Such activity is regulated by Chapter 493, Florida Statutes.

Sections 493.6100 and 493.6118, F.S.

b. The department shall have the power to enforce provisions of this chapter, irrespective of the place or location in which the violation occurred, and, upon the complaint of any person or on its own initiative, to cause to be investigated any suspected violation thereof or to cause to be investigated the business and business methods of any licensed or unlicensed person, agency

or employee thereof, or applicant for licensure under Chapter 493, F.S.

Section 493.6121(1), F.S.

c. During an investigation by the division, each licensed or unlicensed person, applicant or agency is required by law to provide records and truthfully respond to questions.

d. In any investigation undertaken by the department, each licensed or unlicensed person, applicant, agency, or employee must immediately provide records to the department upon request and truthfully respond to questions concerning activities regulated under Chapter 493. Records must be maintained in Florida for a period of 2 years at the principal place of business of the licensee, or at any other location within the state for a person whose license has been terminated, canceled, or revoked.

Section 493.6121(2), F.S.

e. In the conduct of its enforcement responsibility the division is granted the authority to subpoena any person or records, to take sworn depositions, to issue an order to cease and desist, and to seek injunctive relief from the Circuit Court to assure compliance with the law.

Sections 493.6121(3) and(4), F.S.

f. Failure or refusal to cooperate with or provide access to an investigator of the division is prohibited by law.

Section 493.6118(1)(o), F.S.

XXIII. DISCIPLINARY ACTION/PENALTIES

a. When the department finds any violations of Chapter 493, it may do one or more of the following:

- Deny an initial or renewal application for license;
- Issue a reprimand;
- Impose an administrative fine up to \$1,000 per count or separate offense;

- Place a licensee on probation or suspend or revoke a license.

Section 493.6118(2), F.S.

- b. A person who engages in any activity for which Chapter 493 requires a license and does not hold the required license commits:

1. For a first violation, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 493.6120(1)(a)1., F.S.

2. For a second or subsequent violation, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and the department may seek the imposition of a civil penalty not to exceed \$10,000.

Section 493.6120(1)(a)2., F.S.

Paragraph b. does not apply if the person engages in unlicensed activity within 90 days after the date of the expiration of his or her license.

Section 493.6120(1)(b), F.S.

- c. A person who, while impersonating a security officer, private investigator, recovery agent, or other person required to have a license under this chapter, knowingly and intentionally forces another person to assist the impersonator in an activity within the scope of duty of a professional licensed under this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 493.6120(2)(a), F.S.

If such activity is perpetrated during the course of committing a felony, the person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 493.6120(2)(b), F.S.

If such activity is perpetrated during the course of committing a felony resulting in death or serious bodily injury to another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 493.6120(2)(c), F.S.

d. Except as otherwise provided in this chapter, a person who violates any provision of this chapter, except the activity described in h. below, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 493.6120(3), F.S.

e. A person who is convicted of any violation of this chapter is not eligible for licensure for a period of 5 years.

Section 493.6120(4), F.S.

f. A person who violates or disregards a cease and desist order issued by the department commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the department may seek the imposition of a civil penalty not to exceed \$5,000.

Section 493.6120(5), F.S.

g. A person who was an owner, officer, partner, or manager of a licensed agency or a Class “DS” or “RS” school or training facility at the time of any activity that is the basis for revocation of the agency or branch office license or the school or training facility license and who knew or should have known of the activity shall have his or her personal licenses or approval

suspended for 3 years and may not have any financial interest in or be employed in any capacity by a licensed agency or a school or training facility during the period of suspension.

Section 493.6120(6), F.S.

h. A person may not knowingly possess, issue, cause to be issued, sell, submit, or offer a fraudulent training certificate, proficiency form, or other official document that declares an applicant to have successfully completed any course of training required for licensure under this chapter when that person either knew or reasonably should have known that the certificate, form, or document was fraudulent. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 493.6120(7), F.S.

Any comments or suggestions regarding this handbook may be submitted to:

Director
Division of Licensing
Post Office Box 5767
Tallahassee, Florida 32314-5767
www.mylicensesite.com

For questions or inquires regarding applications, the application process, or the status of an application or license, please contact:

Division of Licensing
Bureau of License Issuance
Post Office Box 5767
Tallahassee, Florida 32314-5767
(850) 245-5691 – Fax (850) 245-5655

You may also contact the regional office in your area:

Fort Walton Regional Office
111 Racetrack Road
Unit 111-C, Choctaw Plaza
Fort Walton Beach, Florida 32547
(850) 833-9146 – Fax (850) 833-9149

Jacksonville Regional Office
7825 Baymeadows Way
Suite 106A, Center Building
Jacksonville, Florida 32256
(904) 828-3100 – Fax (904) 828-3122

Miami-Dade Regional Office
7739 N.W. 48th Street, Suite 140
Doral, Florida 33166
(305) 639-3500 – Fax (305) 639-3503

North Port Regional Office
4451 Aidan Lane, Suite 102
North Port, Florida 34287
(941) 240-3160 – Fax (941) 240-3162

Orlando Regional Office
1707 Orlando Central Parkway, Suite 150
Orlando, Florida 32809
(407) 888-8700 – Fax (407) 888-8704

Tallahassee Regional Office
Capital Center Office Complex
4040 Esplanade Way, 1st Floor, Suite 101
Tallahassee, Florida 32399
(850) 245-5498 – Fax (850) 414-6159

Tampa Regional Office
Interstate Business Park
4510 Oak Fair Boulevard, Suite 100
Tampa, Florida 33610
(813) 337-5377 – Fax (813) 337-5378

West Palm Beach Regional Office
400 N. Congress Avenue, Suite 140
West Palm Beach, Florida 33401
(561) 681-2530 – Fax (561) 681-2599

