

1989

Session Law 89-280

Florida Senate & House of Representatives

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S 582 GENERAL BILL/2ND ENG by Girardeau (Similar CS/H 1185, Compare CS/H 676, H 690, H 1371, S 921, CS/S 1363)

Habitual Felony Offenders; provides that prior convictions for qualified offenses outside of state may be used to determine if defendant is habitual felony offender; expands definition of qualified offense for purposes of habitual felony offender; adds aggravated battery to list of previous convictions for which habitual violent felony offender penalties may be imposed; provides applicability, etc. Amends Chs. 775, 493. Effective Date: 10/01/89.

03/20/89 SENATE Prefiled
04/04/89 SENATE Introduced, referred to Judiciary-Criminal; Appropriations -SJ 57
04/14/89 SENATE Extension of time granted Committee Judiciary-Criminal; On Committee agenda—Judiciary-Criminal, 04/18/89, 1:00 pm, Room-2C-(301)
04/18/89 SENATE Comm. Report: Favorable with 2 amendment(s) by Judiciary-Criminal -SJ 180
04/19/89 SENATE Now in Appropriations -SJ 180
05/03/89 SENATE Extension of time granted Committee Appropriations
05/18/89 SENATE Extension of time granted Committee Appropriations
06/01/89 SENATE Withdrawn from Appropriations -SJ 687; Placed on Special Order Calendar -SJ 686 & -SJ 827; Passed as amended; YEAS 37 NAYS 0 -SJ 859
06/02/89 HOUSE In Messages; Received, placed on Calendar -HJ 1288; Read second time; Amendments adopted; Read third time; Passed as amended; YEAS 113 NAYS 0 -HJ 1289
06/02/89 SENATE In Messages; Concurred; Passed as amended; YEAS 35 NAYS 0 -SJ 1271
06/02/89 Ordered engrossed, then enrolled -SJ 1271
06/20/89 Signed by Officers and presented to Governor
07/05/89 Approved by Governor; Chapter No. 89-280

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Rudolph</u>	<u>Liepshutz</u>	1. <u>JCR</u>	<u>Fav/2 Amend.</u>
2. _____	_____	2. <u>AP</u>	<u>Withdrawn</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Habitual Felony Offender

BILL NO. AND SPONSOR:

SB 582 by
Senator Girardeau

I. SUMMARY:

A. Present Situation:

The Florida Statutes define habitual felony offenders and habitual violent felony offenders for the purpose of imposing enhanced sentences which extend beyond the usual statutory maximum penalties. s. 775.084, F.S. (1988 Supp.). In order to be classified as a habitual felony offender, a convicted felon must have previously been convicted of two or more felonies in the state. In addition to the two prior felonies, a court must find that other statutory criteria are met (i.e. the offense for which the defendant is to be sentenced occurred within 5 years of the last prior felony conviction or within 5 years of the defendant's release from prison; the defendant has not been pardoned for his prior crimes; and the convictions have not been set aside).

A habitual violent felony offender is statutorily defined as a convicted felon who has previously been convicted of committing, attempting to commit or conspiring to commit at least one prior enumerated felony, such as murder, sexual battery, robbery or aggravated assault. In addition to one prior enumerated felony conviction, supplemental criteria similar to that applicable to habitual felony offenders must be met in order for enhanced penalties to apply.

The Florida Statutes also provide legislative direction for criminal justice agencies around the state to concentrate their investigative and prosecutorial resources on arresting and convicting career criminals. s. 775.0843, F.S. (1988 Supp.). Persons arrested for committing, attempting to commit or conspiring to commit a felony in the state shall be the subject of career criminal prosecution if such persons have previously been convicted of two or more felonies under the provisions defining habitual offenders and habitual violent felony offenders. s. 775.0842 (1988 Supp.).

For purposes of career criminal prosecution, a previous felony conviction is defined as a felony conviction in this state or a criminal conviction in any other jurisdiction when additional statutory requirements are met (i.e. the felony was punishable by at least 1 year's imprisonment, or death; the defendant was over 18 years old at the time the offense was committed, or tried as an adult; the offender has been imprisoned at least once previously; and the prior felony has not been pardoned or set aside).

B. Effect of Proposed Changes:

SB 582 would add aggravated battery to the list of offenses which qualify a convicted felon for enhanced sentencing as a habitual violent felony offender. In effect, a person convicted of any felony and who has previously been convicted

of aggravated battery could be sentenced as a habitual violent felony offender.

SB 582 also would provide that persons arrested for felonies shall be subject to career criminal prosecution if they qualify as habitual felony offenders or habitual violent felony offenders under section 775.084, F.S. The existing statutory criteria used to define previous felony convictions for purposes of career criminal prosecution would be deleted. These criteria included the requirements that an offender must have been convicted of 2 or more prior felonies and that the offender must have been imprisoned at least once previously.

Further, SB 582 would reenact section 775.0843, F.S., regarding policies to be adopted for career criminal cases by criminal justice agencies within this state, for the purpose of incorporating the amendment to section 775.0842, F.S.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The Department of Corrections estimates that SB 582, over a five-year period, would require per diem costs of \$1,854,356. Further, an estimated 70 new prison beds would have to be constructed over the same time period, costing \$1,463,321. The total impact on the department over five years is estimated to be \$3,408,851 (including indirect costs).

Specifically, implementation of SB 582 would result in the following fiscal impact: for F/Y 1989-90, \$0; for F/Y 1990-91, \$357,297; for F/Y 1991-92, \$728,435; for F/Y 1992-93, \$1,023,457; and for F/Y 1993-94, \$1,299,661.

In lieu of incurring the estimated fiscal impact, the department could release early a number of other inmates equivalent to the number of offenders who will be affected by this legislation.

III. COMMENTS:

None.

IV. AMENDMENTS:

#1 by Judiciary-Criminal:

Provides that the two or more prior felony convictions needed to establish that a defendant is a habitual felony offender may also include convictions of certain qualified offenses outside of the state.

Amends the definition of qualified offense, for purposes of the habitual offender statute, to add that an offense must be substantially similar in elements as well as penalties to a state offense. In addition, the definition is expanded to include those offenses committed in the District of Columbia, United States possessions and territories, and foreign jurisdictions.

#2 by Judiciary-Criminal:

Title.

The Committee on..Judiciary-Criminal..recommended the following amendment which was moved by Senator.....and adopted: and failed:

1 Senate Amendment
 2
 3 On page 1, lines 17 - 31, and
 4 on page 2, lines 1 - 31, and
 5 on page 3, lines 1 - 31, strike
 6 all of said lines
 7
 8

9 If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No - Yes -
10			

11 and insert:
 12 Section 1. Section 775.084, Florida Statutes, 1988
 13 Supplement, is amended to read:
 14 775.084 Habitual felony offenders and habitual violent
 15 felony offenders; extended terms; definitions; procedure;
 16 penalties.--
 17 (1) As used in this act:
 18 (a) "Habitual felony offender" means a defendant for
 19 whom the court may impose an extended term of imprisonment, as
 20 provided in this section, if it finds that:
 21 1. The defendant has previously been convicted of any
 22 combination of two or more felonies in this state or other
 23 qualified offenses;
 24 2. The felony for which the defendant is to be
 25 sentenced was committed within 5 years of the date of the
 26 conviction of the last prior felony or other qualified offense
 27 of which he was convicted, or within 5 years of the
 28 defendant's release, on parole or otherwise, from a prison
 29 sentence or other commitment imposed as a result of a prior
 30 conviction for a felony or other qualified offense, whichever
 31 is later;

1 3. The defendant has not received a pardon for any
2 felony or other qualified offense that is necessary for the
3 operation of this section; and

4 4. A conviction of a felony or other qualified offense
5 necessary to the operation of this section has not been set
6 aside in any post-conviction proceeding.

7 (b) "Habitual violent felony offender" means a
8 defendant for whom the court may impose an extended term of
9 imprisonment, as provided in this section, if it finds that:

10 1.. The defendant has previously been convicted of a
11 felony or an attempt or conspiracy to commit a felony and one
12 or more of such convictions was for:

- 13 a. Arson,
- 14 b. Sexual battery,
- 15 c. Robbery,
- 16 d. Kidnapping,
- 17 e. Aggravated child abuse,
- 18 f. Aggravated assault,
- 19 g. Murder,
- 20 h. Manslaughter,
- 21 i. Unlawful throwing, placing, or discharging of a
22 destructive device or bomb, ~~or~~
- 23 j. Armed burglary, ~~or~~
- 24 k. Aggravated battery;

25 2. The felony for which the defendant is to be
26 sentenced was committed within 5 years of the date of the
27 conviction of the last prior enumerated felony or within 5
28 years of the defendant's release, on parole or otherwise, from
29 a prison sentence or other commitment imposed as a result of a
30 prior conviction for an enumerated felony, whichever is later;

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1 3. The defendant has not received a pardon on the
2 ground of innocence for any crime that is necessary for the
3 operation of this section; and

4 4. A conviction of a crime necessary to the operation
5 of this section has not been set aside in any post-conviction
6 proceeding.

7 (c) "Qualified offense" means any offense,
8 substantially similar in elements and penalties to an offense
9 in this state, which is in violation of a law of any other
10 jurisdiction, whether that of another state, the District of
11 Columbia, ~~or of~~ the United States or any possession or
12 territory thereof, or any foreign jurisdiction, that was
13 punishable under the law of such jurisdiction ~~state or the~~
14 ~~United States~~ at the time of its commission by the defendant
15 by death or imprisonment exceeding 1 year.

16 (2) For the purposes of this section, the placing of a
17 person on probation without an adjudication of guilt shall be
18 treated as a prior conviction if the subsequent offense for
19 which he is to be sentenced was committed during such
20 probationary period.

21 (3) In a separate proceeding, the court shall
22 determine if the defendant is a habitual felony offender or a
23 habitual violent felony offender. The procedure shall be as
24 follows:

25 (a) The court shall obtain and consider a presentence
26 investigation prior to the imposition of a sentence as a
27 habitual felony offender or a habitual violent felony
28 offender.

29 (b) Written notice shall be served on the defendant
30 and his attorney a sufficient time prior to the entry of a
31

1 plea or prior to the imposition of sentence so as to allow the
2 preparation of a submission on behalf of the defendant.

3 (c) Except as provided in paragraph (a), all evidence
4 presented shall be presented in open court with full rights of
5 confrontation, cross-examination, and representation by
6 counsel.

7 (d) Each of the findings required as the basis for
8 such sentence shall be found to exist by a preponderance of
9 the evidence and shall be appealable to the extent normally
10 applicable to similar findings.

11 (e) For the purpose of identification of a habitual
12 felony offender or a habitual violent felony offender, the
13 court shall fingerprint the defendant pursuant to s. 921.241.

14 (4)(a) The court, in conformity with the procedure
15 established in subsection (3), shall sentence the habitual
16 felony offender as follows:

17 1. In the case of a felony of the first degree, for
18 life.

19 2. In the case of a felony of the second degree, for a
20 term of years not exceeding 30.

21 3. In the case of a felony of the third degree, for a
22 term of years not exceeding 10.

23 (b) The court, in conformity with the procedure
24 established in subsection (3), may sentence the habitual
25 violent felony offender as follows:

26 1. In the case of a felony of the first degree, for
27 life, and such offender shall not be eligible for release for
28 15 years.

29 2. In the case of a felony of the second degree, for a
30 term of years not exceeding 30, and such offenders shall not
31 be eligible for release for 10 years.

1 3. In the case of a felony of the third degree, for a
2 term of years not exceeding 10, and such offender shall not be
3 eligible for release for 5 years.

4 (c) If the court decides that imposition of sentence
5 under this section is not necessary for the protection of the
6 public, sentence shall be imposed without regard to this
7 section. At any time when it appears to the court that the
8 defendant is a habitual felony offender or a habitual violent
9 felony offender, the court shall make that determination as
10 provided in subsection (3).

11 (d) A sentence imposed under this section shall not be
12 increased after such imposition.

13 (e) A sentence imposed under this section shall not be
14 subject to the provisions of s. 921.001. The provisions of
15 chapter 947 shall not be applied to such person. A defendant
16 sentenced under this section shall not be eligible for gain-
17 time granted by the Department of Corrections except that the
18 department may grant up to 20 days of incentive gain-time each
19 month as provided for in s. 944.275(4)(b).

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The Committee on..Judiciary-Criminal..recommended the following amendment which was moved by Senator.....and adopted: and failed:

1 Senate Amendment

2

3 In title, on page 1....., line 3.....,

4 after the ";"

5

6

7

8

9 If amendment is text from another bill insert:

10 Bill No.	Draft No.	With Changes?	No <u> </u>	Yes <u> </u>
11 insert:				
12 . providing that prior convictions for qualified				
13 offenses outside of the state may be used to				
14 determine if a defendant is a habitual felony				
15 offender; expanding the definition of qualified				
16 offense for purposes of habitual felony				
17 offender;				
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CODING: Words **stricken** are deletions; words **underlined** are additions.

* Amendment No. 2, taken up by committee: 4/18/89 Adopted x *

* Offered by Senator Girardeau Failed *

(Amendment No. Adopted Failed Date / /)

AS PASSED BY THE 1989 LEGISLATURE

STORAGE NAME: s0582.cj
 DATE: June 30, 1989

HOUSE OF REPRESENTATIVES
 COMMITTEE ON CRIMINAL JUSTICE
 FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: SB 582

RELATING TO: Habitual Felony Offenders

SPONSOR(S): Senator Girardeau

EFFECTIVE DATE: October 1, 1989

DATE BECAME LAW: July 5, 1989

CHAPTER #: 89-280, Laws of Florida

COMPANION BILL(S): CS/HB 1185, CS/HB 676

OTHER COMMITTEES OF REFERENCE: (1)

(2)

I. SUMMARY:

A. PRESENT SITUATION:

Section 775.084, F. S., defines habitual felony offender for the purposes of imposing an extended term of imprisonment for a person who has previously been convicted of two or more felonies in the state. The offense for which the defendant is to be sentenced under the habitual felony offender definition must have been committed within five years of the last felony conviction or qualified offense or within five years if released, on parole or otherwise, from a prison sentence. Habitual violent felony offender is also defined for the purposes of extended sentencing as a person who has committed, or has attempted to commit a violent offense, such as arson, sexual battery, aggravated assault, and murder.

Section 775.0842 provides for career criminal prosecution for persons who have been convicted of two or more felonies under the habitual felony offender or habitual violent felony offender definitions. In order to qualify for career criminal prosecution, the offender must have been convicted for an offense for which he could have been sentenced for a term of imprisonment of one or more years, or death; the offender must have been over 18 years at the time the offense was committed or tried as an adult; the offender must have been imprisoned at least once previously; the offender must not been pardoned on the ground of innocence; nor could the conviction have been set aside in a post-conviction proceeding.

Chapter 493, F. S., provides for the regulation of repossession of motor vehicles, as defined in section 320.01(1), Florida Statutes, and motorboats, as defined in section 327.02(15), Florida Statutes. A reposessor must be licensed under this chapter and once licensed, receives a Class "E" license. All licenses are issued by the Department of State. A reposessor intern is required to have a Class "EE" license and must serve as an intern under the direction and control of a designated sponsoring Class "E" licensee.

Section 493.317, F. S., prohibits certain acts by Class "E" and Class "EE" licensees. Section 493.319, Florida Statutes, provides grounds for disciplinary action by the department. In addition, any person who violates the provisions of part I, chapter 493, Florida Statutes, is guilty of a misdemeanor of the first degree, punishable as provided in sections 775.082, 775.083, and 775.084, Florida Statutes. A misdemeanor of the first degree may be punished by a term of imprisonment not exceeding one year and may be fined up to \$1,000.

Chapter 493, F. S., is scheduled for sunset review and repeal on October 1, 1990.

B. EFFECT OF PROPOSED CHANGES:

This bill adds aggravated battery to the list of offenses which qualifies an offender for enhanced sentencing for the purposes of the habitual violent felony offender definition.

Defendants who have been convicted of any combination of two or more felonies in this state or other qualified offenses would be eligible for habitual offender sentencing. The definition of qualified offense was amended to include those which are substantially similar in elements and penalties to an offense in this state, and in violation of a law of any other state, the District of Columbia, the United States or possessions or territories, or foreign jurisdictions.

The definition of persons subject to career criminal prosecution would be changed to persons who qualify as a habitual felony offender or a habitual violent felony offender under s. 775.084.

The bill amends section 493.317, F. S., relating to repossession. This bill would define the term "repossession" for the purposes of Part I of chapter 493, F. S. The definition would provide that a repossession is complete when a licensed reposessor is in control, custody, and possession of the repossessed motor vehicle or motorboat.

The bill would limit the number of Class "EE" interns that may be supervised by a licensed reposessor to six interns at one time. Presently, there is no limit on the number of interns that may be supervised by a licensed reposessor.

The bill would further amend section 493.317, F. S., relating to prohibited actions by Class "E" and Class "EE" licensees. The

STORAGE NAME: s0582.cj
DATE: June 30, 1989
PAGE: 3

bill would add two additional prohibitions to this section. Licensees would be required to remit to their client monies collected in lieu of any repossession. Once a licensee receives an negotiable instrument payable to his client, he would be required to deliver that instrument to his client within ten working days.

The bill would require licensees to have written authorization from the owner or lienholder to sell any repossessed property for which the licensee has a negotiable title. The licensee would be required to forward the net proceeds from the sale of repossessed property to the owner or lienholder within 20 working days after any transfer documents are executed. Any licensee who violates these provisions would be guilty of a felony of the third degree. A felony of the third degree may be punished by a term of imprisonment not to exceed five years and a fine of \$5,000. Under existing statute, licensees who are convicted of violating any provision of part I of chapter 493, Florida Statutes, are ineligible for licensure for a five-year period.

The bill would amend section 493.318(2), F. S., to require the reposessor to give written notification to the registered owner or leaseholder of the repossessed property as to the whereabouts of personal effects or property which were not a part of the repossession. Notification would have to be made within five working days after the property is repossessed. The bill would also require the reposessor to notify the registered owner or lessee of the property by certified mail at least 20 days before disposing of such personal effects or property.

The bill would require Class "E" repossessors and Class "EE" reposessor interns to display their license number on any vehicle used solely for the purpose of repossession. The display of the license number would be required during repossession. The bill would require that lettering of the license number be at least four inches high and be displayed in contrasting color from the background to ensure visibility.

Sections created by the bill would be scheduled for sunset review and repeal on October 1, 1990.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 adds aggravated battery to the definition of habitual violent felony offender.

Section 2 changes the definition of those subject to career criminal prosecution in s. 775.0842 to those who qualify as habitual felony offender or habitual violent felony offender.

Section 3 reenacts section 775.0843, regarding policies to be adopted for career criminal cases by criminal justice agencies within this state for the purpose of incorporating the amendment to section 775.0842, F. S.

Section 4 provides a definition for repossession.

Section 5 amends the license requirements for repossessors.

Section 6 amends section 493.317, F. S., relating to requirements placed on repossessors by the department.

Section 7 creates Section 493.3175, F. S., relating to sale of property by a licenses.

Section 8 amends s. 493.318, F. S., relating to inventory of repossessor.

Section 9 amends the penalty section.

Section 10 refers to the identification of vehicles for the purpose of repossession.

Section 11 provides that chapter 490 is repealed effective October 1, 1990 and shall be reviewed by the legislature prior to that date.

Section 12 provides an effective date of October 1, 1989.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

Indeterminate

2. Recurring or Annualized Continuation Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

Indeterminate

4. Appropriations Consequences:

Indeterminate

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

Indeterminate

2. Recurring or Annualized Continuation Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

Indeterminate

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate

2. Direct Private Sector Benefits:

Indeterminate

3. Effects on Competition, Private Enterprise, and Employment Markets:

Indeterminate

D. FISCAL COMMENTS:

Indeterminate

III. LONG RANGE CONSEQUENCES:

This bill is consistent with the State Comprehensive Plan, s. 187.201(7), F. S., by punishing criminal behavior.

IV. COMMENTS:


This bill is supported by the Florida State Attorneys Association and the Florida Department of Law Enforcement.

This bill is consistent with the committee mission statement as it ensures that violent offenders are dealt with appropriately. This bill is consistent with the Issues Conference Policy Statement in that it is a result of an evaluation of the definition of violent crime, and it ensures longer prison sentences for habitual and violent offenders.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:



Susan G. Bisbee

Staff Director:



Robin S. Hassler

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

STORAGE NAME: s0582.cj
DATE: June 30, 1989
PAGE: 6

APPROPRIATIONS:
Prepared by:

Staff Director:

HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATORY REFORM
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 676 (similar provisions passed in SB 582)

RELATING TO: Repossession

SPONSOR(S): Committee on Regulatory Reform and Representative Holzendorf

EFFECTIVE DATE: October 1, 1989

COMPANION BILL(S): SB 582, CS/SB 1363, HB 1371, SB 921

OTHER COMMITTEES OF REFERENCE: (1) Finance and Taxation
(2) Appropriations

I. SUMMARY: This bill would amend chapter 493, Florida Statutes, concerning repossessions.

A. PRESENT SITUATION:

Chapter 493, Florida Statutes, provides for the regulation of repossession of motor vehicles, as defined in section 320.01(1), Florida Statutes, and motorboats, as defined in section 327.02(15), Florida Statutes. A reposessor must be licensed under this chapter and once licensed, receives a Class "E" license. All licenses are issued by the Department of State. A reposessor intern is required to have a Class "EE" license and must serve as an intern under the direction and control of a designated sponsoring Class "E" licensee.

Section 493.317, Florida Statutes, prohibits certain acts by Class "E" and Class "EE" licensees. Section 493.319, Florida Statutes, provides grounds for disciplinary action by the department. In addition, any person who violates the provisions of part I, chapter 493, Florida Statutes, is guilty of a misdemeanor of the first degree, punishable as provided in sections 775.082, 775.083, and 775.084, Florida Statutes. A misdemeanor of the first degree may be punished by a term of imprisonment not exceeding one year and may be fined up to \$1,000.

Chapter 493, Florida Statutes, is scheduled for sunset review and repeal on October 1, 1990.

B. EFFECT OF PROPOSED CHANGES:

This bill would define the term "repossession" for the purposes of part I of chapter 493, Florida Statutes. The definition would provide that a repossession is complete when a licensed reposessor is in control, custody, and possession of the repossessed motor vehicle or motorboat.

The bill would limit the number of Class "EE" interns that may be supervised by a licensed reposessor to six interns at one time. Presently, there is no limit on the number of interns that may be supervised by a licensed reposessor.

The bill would further amend section 493.317, Florida Statutes, relating to prohibited actions by Class "E" and Class "EE" licensees. The bill would add two additional prohibitions to this section. Licensees would be required to remit to their client monies collected in lieu of any repossession. Once a licensee receives a negotiable instrument payable to his client, he would be required to deliver that instrument to his client within ten working days.

The bill would require licensees to have written authorization from the owner or lienholder to sell any repossessed property for which the licensee has a negotiable title. The licensee would be required to forward the net proceeds from the sale of repossessed property to the owner or lienholder within 20 working days after any transfer documents are executed. Any licensee who violates these provisions would be guilty of a felony of the third degree. A felony of the third degree may be punished by a term of imprisonment not to exceed five years and a fine of \$5,000. Under existing statute, licensees who are convicted of violating any provision of part I of chapter 493, Florida Statutes, are ineligible for licensure for a 5-year period.

The bill would amend section 493.318(2), Florida Statutes, to require the reposessor to give written notification to the registered owner or leaseholder of the repossessed property as to the whereabouts of personal effects or property which were not a part of the repossession. Licensees would be prohibited from charging a fee for return of such property. Notification would have to be made within five working days after the property is repossessed. The bill would also require the reposessor to notify the registered owner or lessee of the property by certified mail at least 10 days before disposing of such personal effects or property.

The bill would require Class "E" repossessors and Class "EE" reposessor interns to display their license number on any vehicle used solely for the purpose of repossession. The display of the license number would be required during repossession. The bill would require that lettering of the license number be at least 4 inches high and be displayed in contrasting color from the background to ensure visibility.

Sections created by the bill would be scheduled for sunset review and repeal on October 1, 1990.

00186

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

00187

III. LONG RANGE CONSEQUENCES:

None.

IV. COMMENTS:

Limiting the number of reposessor interns that may be supervised by a licensed reposessor may limit entry into this profession. Licensure as a reposessor is contingent upon completing 1 year of work experience as a reposessor, 1 year as a reposessor intern, or a combination of experience and internship totalling 1 year.


V. FINAL ACTION:

CS/HB 676 died on the calendar. Similar provisions passed as sections 4-11 of SB 582 which was approved by the Governor on July 5, 1989, as Chapter 89-280, Laws of Florida.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:



Sheila A. Hill

Staff Director:



Patrick L. "Booter" Imhof

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

SH/cm

00188