

**Opinion No. 53-5644**

January 22, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Roland Ferguson, Secretary New Mexico Collection Agency Board P. O. Box 545  
Santa Fe, New Mexico

{\*30} On January 15th you addressed an inquiry to this office concerning whether or not a person who is a professional reposessor who repossesses under authority granted him in chattel mortgage and conditional sales contracts and works at the direction of the mortgagee where all pay-offs are made direct to the mortgagee and the mortgagee pays all expenses to collection is under the New Mexico Collection Agency Act, as amended, §§ 51-1805 to 51-1824, inclusive, N.M.S.A., 1941 Comp.

Section 51-1805, subsection "b", defines Collection Agencies as follows, to-wit:

"(b) The terms 'collection agency' and/or 'engaging in the collection agency business' shall mean and include all persons engaged directly or indirectly, as a primary or secondary object, business or pursuit, in soliciting claims owed or due, or asserted to be owed or due to another, and any person when engaged in the collection of claims for another where the employment is for more than one person, shall be deemed to be 'engaged in the collection agency business' within the meaning of this act."

One who repossesses an item of personal property is not collecting a claim but is simply regaining possession of an item of security. It is not contemplated by the Act that one who merely gets security is covered under any of the required license fees.

It is possible that some legislation should be promulgated concerning professional repossessing as their duties are such that the public possibly should have some protection from them. It is our opinion, however, that no section of the existing law is applicable to them so far as licensing and regulation is concerned under the Collection Agency Act.

We sincerely hope that this answers your inquiry.

By: Fred M. Standley

Assist. Attorney General