

Community Legal Aid

A non-profit law firm serving the legal needs of low-income individuals and families in central northeast Ohio



www.communitylegalaid.org

Repossession in Ohio

When a motor vehicle is purchased, the buyer usually must sign a security agreement. This agreement gives the lender the right to repossess the vehicle if the debtor fails to pay. The lender has the right to repossess because the vehicle is collateral for the loan. This is called a secured debt.

A creditor must follow the law when repossessing a vehicle. There are some legal defenses to repossession. If there is a grace period for payment, a creditor cannot declare default before the end of the grace period. If the creditor has repeatedly accepted late payments, the creditor should give notice that payments must be made on time.

After repossession. The creditor must sell or dispose of the vehicle in a *commercially reasonable manner*. By law, a creditor must give certain notices to the debtor. The creditor must send a *notice of default and the right to cure* to the debtor within five (5) business days. This notice must show the amount that the debtor must pay to re-obtain the vehicle. The debtor will be required to pay a variety of charges. This includes past due installments, late charges, reasonable expenses and a deposit.

At least ten (10) days before sale, the creditor must send another notice. This notice must state the time and place of the sale and the minimum price for the vehicle. The notice must also inform the debtor that he or she may still owe for the vehicle after the sale. This notice can be sent at the same time as the notice of default. There are some defenses to a sale if these requirements are not followed.

The vehicle must be sold for a reasonable price. If the vehicle is sold at public auction, the sales price will be presumed to be reasonable. Proceeds from the sale must be used to pay off the loan. If the proceeds do not fully pay off the loan, then the lender may file a court action to collect the rest of the loan.

There are few ways to avoid repossession. A debtor can seek to file bankruptcy. A debtor can request a consumer counseling agency to try to work out a payment plan.

For more information, see CLAS' other fact sheets:

Exempt Property under Ohio Law

Answers to Common Bankruptcy Questions

*This article is meant to give you general information and not to give you specific legal advice.
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