

CAR REPOSSESSION

How does repossession happen?

In many states, your car can be repossessed as soon as you default on your loan or lease. This happens when you are late or miss payments to your creditor. The creditor is the person, bank, or institution who loaned you the money to buy the car. Your contract is supposed to define what a default is in your specific case.

Arkansas drivers are required by law to have car insurance. If you stop paying your car insurance, your car can be repossessed.

What can I do to stop repossession?

It's easier to try to prevent your vehicle from getting repossessed instead of to try to dispute it after the fact.

Contact your creditor as soon as you realize you'll be late with a payment. Many creditors work with people they believe will be able to pay soon, even if slightly late. You may be able to work out a delay in your payment or a revised schedule of payments.

Keep in mind, though, that your creditor may refuse to accept late payments or make other changes in your contract -- and may demand that you return the car.

If you agree to a voluntary repossession, you may reduce your creditor's expenses, which you would be responsible for paying. But even if you return the car voluntarily, you're still responsible for missed payments and your creditor may still enter the late payments or repossession on your credit report.

If you're facing or are already in bankruptcy, ask an attorney for information about your rights to the vehicle.

What do I do if my vehicle is seized?

Sometimes your creditor can seize your vehicle as soon as you default on your loan or lease. However, if your creditor agrees to change your payment date, the terms of your original contract may no longer apply. If your creditor agrees to such a change, remember to get it in writing. Oral agreements are hard to prove.

If your vehicle has been seized, your creditor may not commit a "breach of the peace." This means the creditor can't use physical force, make threats of force, or remove your car from a closed garage without your permission. If there is a breach of the peace, then your creditor may be required to pay a penalty or compensate you if any harm is done to you or your property.

What if my car is sold?

Once your vehicle has been repossessed, your creditor may decide to either keep it as compensation for your debt or resell it in a public or private sale. But your creditor must let you know what will happen to the car. In the case of a public auction, state law requires that your creditor tell you the time and place of the auction so that you can attend and participate in the bidding. If the vehicle will be sold privately, you have a right to know the date of the sale.

In any of these circumstances, you may be entitled to redeem or buy back the car by paying the full amount that you owe (which usually includes your past due payments and the entire remaining debt) in addition to the expenses connected with the repossession like storage, preparation for sale, and attorney fees.

Some states have consumer protection laws that allow you to reinstate your loan. This means you can reclaim your car by paying the amount you are behind on with your loan along with your creditor's repossession expenses. Of course, if you reclaim your car, your future payments must be made on time and you must meet the terms of your reinstated contract to avoid repossession.

What are my rights?

No matter what method is used to dispose of a repossessed car, a creditor can't keep or sell any personal property found inside. Your creditor may be required to use reasonable care to prevent anyone else from removing your property from the car. If your creditor can't account for personal items left in the car, you may want to contact an attorney about your right to compensation.

If you feel that your car was wrongfully repossessed or you were charged an unfair amount of interest on the car, contact an attorney.

Where can I find help?

You can learn more about your rights and specific repossession requirements by contacting the Arkansas Attorney General's Office (see www.arkansasag.gov) or local consumer protection agency (see www.consumeraction.gov)

The Federal Trade Commission is another good resource. The FTC works to prevent fraudulent, deceptive and unfair business practices in the marketplace. You can file a complaint or get free information on consumer issues by visiting the FTC web site (www.ftc.gov) or by calling 877-FTC-HELP (382-4357); TTY: 866-653-4261.

Submitting a Complaint:

www.ftccomplaintassistant.gov

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