

## REPOSSESSION OF VEHICLES

When a person financing a car falls behind on payments, the lender may repossess the vehicle. In most cases, if the buyer does not pay to retrieve the car after repossession, the car will be sold at auction and a deficiency for any amounts owing on the contract will be sought. If the car was purchased in California, the lender will be required to send a letter to the buyer's last known address giving him or her an opportunity to get the car back before it is sold at auction. The letter is referred to as a Notice of Intent to Sell or NOI. The lender must give the buyer at least 15 days notice before the car can be sold.

To get the car back, the buyer may be allowed to reinstate the loan, ie: bring the payments current and continue with monthly payments as they come due. The buyer would also have to pay the repossession fees, storage fees and law enforcement fees. There may be additional fees depending on the circumstances of the case. However, the buyer may be denied the opportunity to reinstate the loan if the car had been previously repossessed within the past 12 months or if the buyer hid the car after failure to make payments on the loan.

The buyer may also have the option of redeeming the contract completely, by paying off the full amount of the loan and the repossession fees and thereby obtaining title to the car. This is called "redemption."

If the car is sold at auction, the auction price received will be deducted from what the buyer owes on the contract (including repossession and sale fees). In most cases the auction price is a low-ball wholesale price and doesn't cover the total amount owed on the car. The lender then can proceed against the buyer for the difference owed on the contract and other costs.

The lender will send the buyer a deficiency letter following the sale of the car at auction indicating what is still owed at that time. It is important to seek attorney advice at that time, because the lender may have failed to comply with the law in notifying the buyer of the opportunity to get the car back. The NOI has to be very specific and many consumers do not realize they have a legal defense to the alleged deficiency.

If your car is repossessed or is in danger of being repossessed, you should consult with a lawyer to discuss your options.