

Once you have bought the car or other item, if you have trouble making the payments, it is important to let the creditor know about the problem. Sometimes a creditor will give you an extension of time to pay, or even refinance the whole loan.

If you are having trouble paying your debts, additional information can be found in the brochure *Overwhelmed by Debt?* and under the separate topic *Bankruptcy*.

A Chapter 13 bankruptcy may be a means to help you avoid repossession and deal with your obligation to the creditor, but Chapter 13 bankruptcy is something for which you will need a lawyer who specializes in that field.



Repossessions

Public Information Pamphlet #12

What steps can a creditor take to repossess personal property?

Is a warning notice required before repossession can take place?

What happens after property is repossessed?

What happens if the property is sold for less than I owe on the debt?

REMEMBER. The law often changes. Each case is different. This pamphlet is meant to give you general information and not to give you specific legal advice.

Please use the information found in this brochure carefully since the law is constantly changing and the information may not accurately reflect any changes in the law that occurred following the creation and publication of the brochure.

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provides help for people who have no place else to turn



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■ **WHEN YOU** owe money to a bank, finance company, or seller (creditor), often the creditor has a security interest in some of your property. This property is called collateral. The security interest gives the creditor the right to take back (repossess) that property if you ever fail to make a payment. For example, when you buy a car on credit, the creditor almost always has a security interest in the car. This means that the creditor can repossess the car if you fall behind on the payments.

What steps can a creditor take to repossess personal property?

Creditors may not repossess the personal property (collateral) on their own unless they can do so peacefully. In other words, you have the right to tell the creditor who comes to your door that he or she cannot have the property back and can't come into your home. It is unlawful for the creditor to enter your home or yard after you tell the creditor not to do so.

If you tell the creditor that she/he cannot take the property back and can't come into your home to do so, the creditor will have to go to court to try to get the property back (but doing this might increase the final cost charged to you).

Creditors cannot take back the property unless there is a written security agreement signed by you that clearly identifies the property that can be taken back if you don't pay.

If the creditor breaks the law in taking back your property, you have the right to sue the creditor in court.

Is a warning notice required before a repossession can take place?

Usually no warning notice is required before repossession. For example, a car can be repossessed without any warning notice if you fall behind in payments. But, Pennsylvania law does require a warning notice in two situations:

1. **Mobile homes.** If you borrowed the money to buy a mobile home, the creditor may not repossess the mobile home without first giving you a written 30-day notice and giving you a chance to stop the repossession by making up the back payments. Then you can prevent repossession of the mobile home by paying the back payments, plus late charges and up to \$50 for the creditor's attorney's fees. You also have to correct any other violations of your contract with the creditor. (For example, if your contract requires you to have insurance on the home, you have to do this.) Even after the 30 days pass, you can save a mobile home by catching up on the payments, but then you may have to pay court costs and higher attorney's fees.

2. **Personal property other than a vehicle.** If you borrowed the money to buy personal property other than a vehicle (for example, furniture or appliances), the creditor may not repossess the property without first giving you a 21-day notice that gives you a chance to make up the back payments.

What happens after property is repossessed?

Once the property is taken back, the creditor will probably try to sell it. The creditor must give you written notice of the time and location of the sale. It is a good idea to go to the sale, so that you can make sure that the property is displayed and sold properly. You want the property to be sold at the highest possible price, because the money the creditor gets from the sale will be applied toward your debt. If the property is sold at auction, you can bring people who are interested in buying the property. Even if the property is not sold at auction, if you know of people who are willing to buy the property, get written bids from them and inform the creditor, both by telephone and in writing. Before the property is sold, you can still

get the property back if you pay the full amount due or work out an agreement with the creditor to make up the back payments.

If you had personal property in a car before it was repossessed, you have the right to get it back after the repossession.

What happens if the property is sold for less than I owe on the debt?

If the creditor sells the collateral but does not get enough money to pay off your debt, you may still have to pay the balance—even if you voluntarily gave up the property to the creditor. The creditor has the right to sue you if you don't pay. However, if the creditor breaks the law in repossessing or selling your property, you might not have to pay the balance and you might even be able to sue the creditor. If you are sued for the balance due after a repossession, it is important to see an attorney promptly, because there is only a short time to respond to the lawsuit.

Can creditors repossess property of mine that is not collateral for the debt?

No, your creditors can only repossess the collateral from you. But if a creditor sues you and wins a ruling that you owe money, the creditor can have a sheriff or constable take and sell other property you own. See the brochure *Overwhelmed by Debt?* for more information.

What steps can I take to avoid repossession?

To avoid repossession, the most important step is to avoid getting in over your head financially. When you buy a car, for example, make sure that there is room in your budget to make the payments even if your income drops or you have a financial emergency. Do not let the salesperson talk you into buying a fancier car or more options than you can afford. Be careful about the interest rate, too. If extra charges are added to the debt, make sure that you understand each one and that it is for something you want.