

Vehicle repossession

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Vehicle repossession is when a lender can legally take back your vehicle from you. This describes when a lender can legally repossess a vehicle and what happens after they repossess it.

What is vehicle repossession?

If you take out a loan to buy a vehicle or other kind of vehicle, the lender may be allowed to physically take the vehicle back from you if you fall behind on loan payments. But there are restrictions on how and when they can repossess it.

When can a repossession take place?

A lender can take your vehicle if you default on your loan or lease agreement. The written contract that you signed for the loan or lease should define what a “default” is. Usually, a default means missing a payment. Sometimes, a default means failing to keep insurance on the vehicle.

How does a repossession take place?

After you default on the loan, the lender may repossess your vehicle. The lender doesn’t have to notify you before the repossession.

Exception: if your vehicle is on an Indian reservation, the tribal code may require a court’s permission before a repossession, even if you bought the vehicle off the reservation. Check the tribal code (<https://lib.law.uw.edu/c.php?g=1239321&p=9069750>) or contact the tribal court clerk for tribal code information.

Vehicles may be towed from public streets, and public or private parking lots. They can even be towed from a driveway, as long as the tow operator doesn't move any other vehicles.

However, tow operators aren't allowed to:

- Enter garages or homes without permission.
- "Breach the peace," which includes threatening you with harm, insulting you, or breaking a lock on a gate.
- Tow a vehicle if you are in it and refuse to move.

What if the tow operator breaches the peace?

If a tow operator breaches the peace while towing your vehicle, the lender may owe you money to cover damage to you or your property.

If the lender tries to sue you to recover money that you owe under the loan, you may have a legal defense to the lawsuit that they breached the peace during repossession.

They repossessed my vehicle. Can I get back the stuff I left in it?

Yes. The lender can't keep or sell any personal belongings (called personal property) found inside the vehicle after repossession.

You should immediately make a written demand for the return of your belongings. Make a list of what was in the vehicle. Send the list with a letter. You can use the sample letter in this guide to draft your letter. Keep a copy of your property list, demand letter, and proof of mailing.

If the lender doesn't return your belongings, you can file a complaint with the government agency that regulates that lender. (Search NMLS Consumer Access for the agency that regulates your lender (<https://www.nmlsconsumeraccess.org/Home.aspx/MainSearch>)). You may also file a claim for the value of your lost property in small claims court.

What if I own my vehicle outright and it was still taken?

Repossession usually only happens related to a debt for the vehicle. It could also happen if you used the vehicle's title to secure a debt and then didn't pay that debt. If you **know** you own your vehicle and it shouldn't have been repossessed, you may have been towed and not realized it.

What happens after a repossession?

The lender will probably sell the vehicle at an auction to recover money you owed under the loan. The lender may add the costs of the repossession itself, and the cost to get it ready to sell to the total amount you owe.

Often, the amount of money they get for the vehicle will not cover the amount you owe, and the lender may sue you to try to collect the rest (called a “deficiency”).

In very rare cases, the amount the sale of the vehicle may earn more than you owe, and the lender should return the surplus to you. This is not common.

The lender should give you a written notice about whether they intend to sell or keep the vehicle.

What if I have already paid off part of the loan?

If you have paid more than 60 percent of the amount of the loan:

- The lender must sell, lease, or otherwise dispose of the vehicle, unless you sign a statement after the default allowing the lender to keep the vehicle in full payment of the loan. The sale must be held within **90 days** of repossession. The lender must send you written notice of the sale time and place.

If you have paid less than 60 percent of the amount of the loan:

- The lender can keep the vehicle as payment for the loan or sell it. The lender must send you written notice telling you what it will do. If the lender decides to keep the vehicle, you have **20 days** to write them to demand they sell the vehicle.

If you are not sure how much you have paid, ask the lender for an accounting of the charges and your payments.

Can I get my vehicle back after a repossession?

It depends on whether you can afford it.

Maybe. You have the right to buy back (to “redeem”) the repossessed vehicle up until it is sold or within 21 days of getting notice that the lender is going to keep it. The cost to redeem the vehicle will depend on what your that the loan or lease agreement says. You may be liable for the cost of repossession and legal fees.

I can't make a vehicle payment. How can I avoid repossession?

Contact your lender as soon as possible. Be honest about the situation and about why you can't pay. Ask for an accounting so you can know for sure how much you still owe.

If you have been a good customer and made payments on time in the past, your lender might agree to put off (to "defer") a payment and let you keep the vehicle. You may be able to ask to make lower payments over a longer period of time.

If you can reach an agreement to change your original contract, get those updated terms **in writing**.

Don't wait until the lender turns your loan over to a debt collector. By then, it is too late to negotiate.

Would it help if I just gave the vehicle back?

Maybe. If you agree to give the vehicle back (called "voluntary repossession"), you may reduce your lender's expenses. This means you could end up owing less money.

But even if you agree to return the vehicle, you must still pay what you owe on the loan.

Can I refinance the vehicle so I can keep it?

Maybe. You might be able to negotiate a lower interest rate or spread out the payments over a longer period. This will lower your payments. The downside is that you will pay more interest and usually the loan will be extended for a longer period of time.

Can I sell the vehicle to pay off the loan?

Maybe. First, you should figure out how much you owe on the vehicle. Then check its market value on a site such as Edmunds (<http://www.edmunds.com/>), Kelley Blue Book (<http://www.kbb.com/>), or the National Auto Dealers Association (NADA) Used Car Pricing Guide (Pacific Northwest edition) (<https://www.nada.org/nada/consumer-vehicle-values>). If you owe less than the vehicle is worth, you could try to sell it and use the money to pay off your debt.

Before selling, review your loan or lease agreement. Sometimes, lenders charge prepayment penalties for paying off your loan early.

The lender repossessed the vehicle and is threatening to sue me for the deficiency. What can I do?

Try to talk to a lawyer right away. The lender can only sue to collect the remaining amount owed if the lender followed the proper procedures for repossession and sale. If the lender didn't follow the proper procedures or the tow operator breached the peace, you might have a legal defense against the lawsuit.

Next, if you are served with legal papers called a **Summons and Complaint**, you must file an answer to the lawsuit. You can fill out these forms online. **You have a short deadline to respond** to preserve your rights and avoid a default judgment.

I'm filing for bankruptcy. Will that make a difference?

It could. If you have filed or are planning to file for bankruptcy, ask a lawyer about your rights to the vehicle during that process.

Form attached:

Letter to lender requesting return of personal property (NJP Vehicle 158)

WashingtonLawHelp.org gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.

Date: _____

To:

Lender's Name

Lender's Street address

City, state and zip

Re: Return of personal property - vehicle repossession

My vehicle (*describe make/model/year*):

was repossessed from (*address where vehicle was located*):

on (*date*) _____ because I defaulted on the loan to buy the vehicle.

I demand that you immediately return to me all the personal property in the vehicle.

You do not have a right to keep my personal property or to charge me a fee to get it back. You have a secured interest in the vehicle only. My personal property is unsecured. If you do not return my personal property, you may be liable for conversion, negligence, and remedies provided by the Uniform Commercial Code. See RCW 62A.9A.625.

Contact me as soon as possible to tell me when I can recover my property.

Sincerely,



Sign here

Print name

Street address

City, state and zip

Phone number / Email - optional