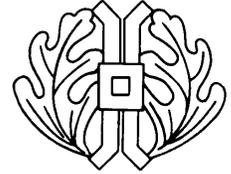


PREVENTIVE LAW SERIES

AUTOMOBILE REPOSSESSION



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If you borrowed money to purchase your car, either the dealer or a lending institution probably has a security interest in the car if the loan is not yet fully paid. If you fail to make the scheduled payments or otherwise breach your contract, the lender may repossess your car and sell it. The two types of repossession are voluntary and involuntary repossession.

Voluntary Repossession - A voluntary repossession occurs when you personally return the car to the lender or otherwise consent to the lender taking possession of the car. This will normally occur when you are unable to continue making payments, or have already failed to make scheduled payments. Beware, because a voluntary repossession does not relieve you of your duty to pay off the loan! If the car is sold for less than the amount you owe, **you are still liable to pay the difference!**

Involuntary Repossession: As mentioned above, if you fail to make scheduled payments or otherwise breach your contract, the lender may repossess your car. If repossession is done without your approval, it is an involuntary repossession. Such involuntary repossessions are legal as long as the lender does not "breach the peace." If you are present and object to the repossession, then the lender cannot repossess. However, if you are not present, a lender may hotwire a car, use a duplicate key, and even remove the car from your open garage or carport! A lender may not enter a closed but unlocked garage door. If there is a court order, a lender may repossess over your objection.

Consequences of Repossession:

A repossession **does not relieve you of your obligation to pay for the car.** A lender has two basic options: to take the car in full satisfaction of the loan, or sell the automobile and apply the proceeds from the sale to the outstanding balance on the loan. The second option is the one most dealers choose, because if the car is sold for less than what you owe, they can still come after you for the balance of the loan. When a lender intends to resell the car, the sale must be conducted in a "commercially reasonable" manner. This is defined by state law. Once sold, the proceeds are applied to the balance of the loan. If the sale renders more than you owe, you are entitled to the amount above what you owe on the loan. **This almost never happens!** If the proceeds from the sale are less than what you owe, as is usually the case, you are responsible for the difference, and the money is due immediately. Most lenders will accept a payment plan, but you must negotiate this as a new contract.

Options to you as a Consumer and Car Owner:

If your car has not yet been repossessed, you should consider making up any back payments, as well as continuing to make future payments. If you are unable to catch up on the amount you owe on the loan, you should try to sell the car yourself. By selling the car on your own, you will most likely receive more money than a lender will receive at the foreclosure sale. To ensure that title to the vehicle will transfer when you sell it, check with the lender beforehand to determine what the lender will require in order to release title to the automobile.

If your car has already been repossessed, you have the following options:

incurred

- * Pay the balance of the contract owed, plus back payments and costs the lender in repossession (towing and storage charges);
- * Some lenders may give you the car back if you pay the past due payments, late fees, costs of repossession, and agree to make all future payments;
- * Allow the lender to sell the car and risk having to make payments on a car you no longer possess.

If your car has been repossessed, you are entitled to your personal belongings which were in the car at the time of repossession.

LEGAL ASSISTANCE APPOINTMENTS:

For an appointment to see a legal assistance attorney, please contact the Legal Assistance Office, located in Building 610, Naval Air Station North Island, by telephone at (619) 545-6278.

RESOURCES:

California Department of Consumer Affairs: 1-800-952-5210, <http://www.dca.ca.gov/arp/>
California Motor Vehicles Department, San Diego Field Office: 619-688-0227
Better Business Bureau: (619) 496-2131, <http://www.bbb.org/alerts/index.html>
National Automobile Dealers Association (N.A.D.A.): <http://www.nada.com/>
Consumer Response Center, Federal Trade Commission: (202) 326-2222, <http://www.ftc.gov/>
Federal Trade Commission Regional Office: (415) 356-5270