Surviving Debt is available to all for free during the COVID-19 emergency. Navigate using the Table of Contents on the left sidebar to access the text. To purchase Surviving Debt (available in print or as an ebook) visit the NCLC bookstore [1].

When buying a car on credit, you almost always must put up the car as collateral for the loan. Sometimes consumers also use their cars as collateral for an unrelated small loan. Most of these are high cost auto title or “auto pawn” loans, which are legal in some states but illegal in others.

If your car is collateral for a loan and you get behind on your payments or violate other loan terms, you risk the immediate repossession of your car. Miss one or two payments and your car may be gone.

A repossession agent may break into your car and drive or tow it away. The process is called “self-help” because the creditor is not required to go to court to get permission from a judge to repossess your car. In most states, the creditor does not even have to notify you that a repossession is about to take place.

There are important exceptions to a creditor’s right to use “self-help” repossession:

? The creditor must have taken the car as collateral or the car must have been leased to you. For example, if you do not pay a medical debt or a credit card debt, the medical provider or card issuer cannot repossess your car.

? In some states, the creditor must first give you notice of the right to catch up on delinquent payments. (See Curing a Default below.)

? A self-help repossession cannot breach the peace.

? Self-help repossession is generally illegal on certain American Indian reservations. In Louisiana, self-help repossession is illegal unless the creditor is a licensed financial institution or bank that has a state or U.S. charter and the repossession agent has a state license. In Wisconsin, the consumer can object to self-help repossession if the consumer does so within 15 days of receiving notice of a pending repossession. Self-help repossession is legal in Maryland only if the credit agreement allows it.

? A creditor cannot use self-help to repossess a car owned by active duty military personnel if the debt was incurred before the individual entered active duty. Children, spouses, and other dependents of active duty military personnel are similarly protected, but only if they apply to a court for an order prohibiting repossession.

After the creditor repossesses your car, the creditor will then sell it, typically for much less than it is worth. If so, you may find yourself being sued for the amount of money that the creditor claims remains to be paid on the loan after deducting the proceeds of the sale. This can be thousands of dollars.

This chapter provides advice on how to avoid repossession and what to do if a car is repossessed. Manufactured home repossessions are discussed in Chapter 16 [2].

Source: National Consumer Law Center, Surviving Debt [50th NCLC Anniversary Edition], updated at www.nclc.org/library
Source URL: https://library.nclc.org/sd/1401

Links
[1] https://library.nclc.org/bookstore