This treatise deals with the seizure of personal property, including car repossessions, seizure of manufactured homes, repossession of rent-to-own appliances, and threats to seize household goods. The treatise covers seizures pursuant to loan, credit sale, and lease agreements, and pursuant to artisan and other statutory liens. The focus is on consumer law, including security interests in consumer goods, consumer leases, and liens on consumer property. Foreclosure on real estate is addressed in a separate treatise.

The major topics of discussion in this treatise are:

- If and when personal property can be seized;
- Whether seizure is allowed without a court order and standards for self-help repossession;
- Consumer defenses to replevin actions and similar court actions for possession of personal property;
- What rights the consumer has to recover the property after seizure;
- Disposition requirements concerning the seized property;
- The respective rights and liabilities of the parties after the consumer has lost possession of the property;
- Consumer defenses to deficiency actions; and
- Affirmative consumer claims arising out of repossession.

Consumer rights in these areas are governed by numerous different federal and state laws, particularly Articles 1, 2A, and 9 of the Uniform Commercial Code (UCC). Of almost equal importance are state retail installment sales acts, motor vehicle financing laws, and other state consumer credit laws, state replevin procedures, state lien laws, state rent-to-own laws, state leasing statutes, state deceptive practices statutes, and state debt collection laws. Applicable federal laws include the United States Bankruptcy Code, the Truth in Lending Act, the Fair Debt Collection Practices Act, Federal Trade Commission rules, Office of the Comptroller of the Currency manufactured home regulations, the Servicemembers Civil Relief Act, the Consumer Leasing Act, the Equal Credit Opportunity Act, and the Civil Rights Acts. Common law tort and contract law also provide consumer remedies.

This treatise is not organized by these various sources of law. For example, there are no separate chapters analyzing the UCC, retail installment sales acts, or the federal Fair Debt Collection Practices Act. Instead, chapters are organized by different types of seizures—such as self-help repossession and the use of replevin—or by different stages of the repossession process, such as creation of a security interest, default, seizure of the collateral, sale of the collateral, and the creditor’s deficiency action. Applicable laws are examined at every stage of a repossession or replevin.

Chapter 2, infra, is an exception to this organizational approach. Sections 2.1, 2.2, 2.3, infra, describe the scope, history, and basic substantive features of UCC Article 9. Section 2.3, infra, describes the other major sources of repossession law, summarizing separately, for each type of legislation or common law rule, issues of scope, remedy, and legal research tools. Chapter 2, infra, thus augments the discussion of those laws found in other chapters, particularly the UCC, state consumer credit laws, and state deceptive practices statutes. A more extensive discussion of remedies for each type of claim can be found in Chapter 13, infra.

Throughout this treatise, a special effort has been made to focus on the following types of transactions:

- Credit secured by automobiles;
- Automobile leases;
- Credit secured by manufactured homes;
- Rent-to-own transactions;
- Store credit cards that take a security interest in the property being purchased;
- Non-purchase-money security interests in household goods;
- Cross-collateral and future advance clauses, refinancings, and other techniques by which merchants and lenders attempt to utilize preexisting collateral to secure additional loans;
- Automobile pawns; and
- Other statutory liens.

This treatise includes separate sections on each of these topics, analyzing all sources of law pertaining to each type of transaction.
1.1.2 Topics Covered in This Treatise

Published on NCLC Digital Library (https://library.nclc.org)
Date downloaded: September 19, 2021 2:12 pm

Footnotes


Source: National Consumer Law Center, Repossessions [9th Ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/repo/010102-0

Links

[1] https://library.nclc.org/nclc/link/Repo.02
[2] https://library.nclc.org/nclc/link/Repo.02.01
[3] https://library.nclc.org/nclc/link/Repo.02.02
[4] https://library.nclc.org/nclc/link/Repo.02.03