



NEW YORK STATE CONSUMER PROTECTION BOARD REPOSSESSION OF MERCHANDISE IN NEW YORK STATE FACT SHEET

Worried About Repossession? ...Know Your Rights

What is Repossession?

Repossession is when a merchant takes back an item that has been sold to a consumer using credit because the consumer has failed to make the required payments.

What is Default?

Default in the context of repossession happens when the consumer fails to meet his/her obligations under the sales contract.

What is Redemption?

Redemption occurs when the consumer pays off the entire amount owed and is able to regain ownership of the property or item.

What is Reinstatement?

Reinstatement occurs when the consumer is able to re-enter a contract to which he/she was previously a party. The merchant must provide the consumer with the same merchandise or merchandise of comparable quality and condition when he/she is able to pay the amount in arrears.¹

What is a Lien?

A lien is a legal claim or a "hold" on some type of property, whether personal or real property, against monies or services owed to another person or entity.

What Consumers Should be Aware of When Facing Repossession:

1. It is essential that a consumer refer to his/her original contract to review the terms and conditions of repossession and default.
2. If a consumer misses a payment or breaks the contract in any way, the creditor is not required to give prior notice before seizing or repossessing the goods, unless the contract provides otherwise.
3. Typical events which may trigger default include but are not limited to the following:
 - failure to pay for the goods;
 - failure to insure the goods;
 - bankruptcy of the debtor, death of the debtor; or,
 - refusal of examination of the goods.

¹ NYS Personal Property § 501(6)

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4. The contract will dictate how and when repossession will be accomplished.
5. The creditor may not breach the peace and must proceed in a reasonable manner while carrying out repossession.²
6. New York law requires a creditor who repossesses a motor vehicle or motorcycle to notify the debtor personally, or by special delivery via first class mail, within 24 hours of such repossession in addition to notifying the nearest district office of the NYS Department of Motor Vehicles (DMV). Such notice must include the name and address of the person, firm, or corporation repossessing the vehicle.³
7. If a consumer's motor vehicle or motorcycle is being held under a lien for repairs or storage, the holder of the vehicle must return any registration plates of the vehicle to the consumer, upon request, within 24 hours. If the creditor fails to do this, he/she must personally deliver or mail by special delivery first class mail, a written notice which will allow the consumer to retrieve the license plates from the nearest DMV office.⁴

What Happens Once a Consumer's Property is Repossessed?:⁵

- The property may be sold at public auction or through a private sale. A consumer has the right to be notified of the time and place of such auction or sale.
- When a creditor sells repossessed goods, the money he/she receives is allotted first to his/her expenses from repossessing and selling the goods, and then to satisfy the debt. If there is money remaining, the consumer receives it.
- If the creditor did not receive sufficient funds from the sale, he/she may sue for the difference.
- Until the creditor sells the debtor's goods or enters into a contract with a new individual, the consumer has the right to pay all of the existing debt plus the creditor's expenses in repossessing, preparing to sell the goods (including reasonable legal expenses) and entering into a new contract, at which point the creditor must then return the goods to the original consumer.⁶

² NY Personal Property § 501(3)(b); NYS Vehicle Traffic Law § 425

³ NY General Business Obligations § 7-401(2)

⁴ NYS Vehicle Traffic Law § 425

⁵ See [http://www.newyork.bbb.org/WWWRoot/SitePage.aspx?](http://www.newyork.bbb.org/WWWRoot/SitePage.aspx?site=24&id=d523ee14-41e8-4d7f-9fd2-1de02ec04c80)

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⁶ NY Personal Property § 501(6)



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