

Motor Vehicle Repossession Policies of

Two Western Credit Unions

REPOSSESSION GUIDELINES -- Policy #1

I. Purpose

These guidelines have been developed in order to balance the right of the Credit Union to protect its interests in a motor vehicle used as security for a loan when a member has defaulted and the need for the member to be treated fairly upon default.

II. Policy

The Credit Union remains subject to provisions of state and local law.

- a. The Credit Union will make reasonable attempts to collect the debt or otherwise cure the default before repossessing the vehicle and will try to work with the member to resolve delinquency or other problems.
- b. If there is a legitimate dispute over the amount owed, the Credit Union will not repossess until the dispute is investigated and a report is made to the member.

III. Procedure

Before Repossession

- a. The Credit Union has established written policy as to the circumstances that must exist in order for it to repossess a motor vehicle that is collateral for an outstanding loan. Where default is due to nonpayment, the Credit Union, among other things, considers the number of payments that must generally be issued to trigger repossession, (and the need to structure the policy in a way to give Credit Union personnel authority to deviate from the policy in exceptional cases). Particular awareness of state law and court decisions will be necessary in formulating the policy (e.g., some state laws require notice to debtor prior to repossession and establish a right to cure the default).
- b. The Credit Union uses several repossession firms.
- c. If the Credit Union, through a court notice or otherwise, is aware that a bankruptcy petition has been filed, all repossession efforts are stopped immediately. In cases where a Credit Union's repossession efforts are met by the member's explanation that a bankruptcy petition has been filed, the Credit Union Collection Department personnel confirms the filing with the bankruptcy clerk's office before taking further action.

After Repossession

- a. The Credit Union will make sure that it has taken adequate steps to protect the motor vehicle, such as by maintaining insurance on the vehicle or by checking that the storage facilities are adequate to protect the vehicle from theft or vandalism.
- b. As soon as possible after repossession, the repossession agency will have an inventory made by two people on what items of personal property are in the vehicle. (Photographs are suggested to evidence the condition and contents of the vehicle.)
- c. The member is sent as soon as possible after repossession:
 - 1. A ten-day notice of intent to sell, sent by certified mail, giving the member ten days to pay the delinquent amount and charges to redeem collateral;
 - 2. A notice stating that the vehicle has been repossessed;
 - 3. The inventory for the member's personal property is listed by the repossession agency. The member may pick up all personal property from the agency.
 - 4. Information stating how to retrieve personal belongings, when the Credit Union plans to sell the motor vehicle, what actions the member has to take in order to redeem the vehicle (if permitted to do so), and who should be contacted if the member disputes that he or she was in default.
- d. If this is the first time collateral used by the member to secure a loan has had to be repossessed, the Credit Union, consistent with state law requirements, will consider allowing the member to redeem the vehicle by paying catch-up payments plus collection and repossession costs unless the Credit Union determines that circumstances indicate that the member will default again.
- e. After the tenth day of repossession, the vehicle will be advertised for sale. If the Credit Union sells the motor vehicle, it will sell the vehicle at the highest price possible given the condition of the vehicle, cost of repairs, storage and other factors affecting the sale price. Since selling the vehicle in a timely manner is likely to increase the sale price, the Credit Union shall try to sell the motor vehicle as soon as state law permits. If a petition is filed in bankruptcy after repossession but before sale, sale must be delayed until discharge unless a court order permits otherwise. Three bids must be received prior to sale.
- f. The member will promptly receive an accounting of all costs and credits resulting from the sale of the motor vehicle. Surplus and deficiency balances will be handled in accordance with state law.
- g. Out Of State Repossessions:

It is imperative that out of state repossessions are immediately sold; or given to the Credit Union to eliminate further storage costs. The repossession agency will send the Credit Union a condition report and pictures of the collateral. Upon receiving the report, the Credit Union will evaluate the security and the amount of the expense to bring the vehicle back to the Credit Union. Should the collateral be undrivable or have extensive damage, the agency will send the vehicle upon receiving three bids after receiving approval from the Credit Union.

h. Deficiency Balance:

The deficiency balance is the balance owing after the sale of the repossessed vehicle. The member will be notified immediately upon the sale of the repossession by certified mail. If more than 60% of the original loan is paid, the repo must be sold within 90 days to sue for the balance owing. The Credit Union may sue the member for the deficiency balance by taking the following forms to an attorney;

1. Copy of the three bids;
2. Ten-day notice of intent to sell (certified);
3. Copy of the ledger card;
4. Copy of the letter stating the unpaid balance after the sale, including return receipts;
5. Original contract.

All co-makers will be notified of all transactions, send copies of all correspondence as they are mailed to the maker and given the option of purchasing the vehicle prior to the Credit Union repossessing it.

j. Voluntary Repossession Procedure:

1. The member will be required to sign, date and explain the circumstances involving the return of the collateral and his/her consent to the voluntary repossession.
2. The Credit Union will be obligated to explain credit standing and make arrangements for the deficiency balance.
3. The member will be notified immediately upon sale of the collateral.

GENERAL DESCRIPTION OF REPOSSESSION -- Policy #2

Repossession is sometimes necessary to protect the interest of the credit union on delinquent loans. As a legal action, it is extremely important that certain steps be followed in order to avoid other legal ramifications.

I. Operating Procedure

- a. Before any legal action can be taken against a debtor they must have a Notice of Cure in effect. This allows the debtor 20 days from the date the letter is sent for the debtor to correct the delinquency on the account. The Notice of Cure is then in force for 365 days from the date of the letter.
- b. When considering a repossession the collector should have taken all the necessary steps to collect the account. Consult with other collectors or your supervisor to discuss other alternatives. Repossession is a big step and one that should not be taken lightly.

- c. Voluntary repossession should be considered before a forced repossession. The member may bring in the vehicle or you may agree to pick it up. Better may be maintained with the member in this situation and recovery afterwards could be better.
- d. For voluntary repossessions the member should still sign a voluntary repossession form and an acknowledgment stating that personal property has been removed.
- e. For involuntary repossessions we use repossession agencies to pick up the vehicles. Consult with the Assistant Vice President for approved agencies. A hold harmless agreement should also be sent.
- f. Upon receipt of the vehicle, an inventory of all personal property should be prepared. Two (2) employees should be present when listing the personal property.
- g. A condition report of the vehicle should be prepared. Pictures of the vehicle also recommended.
- h. The car should be properly secured (locked and license; plates removed).
- i. Upon repossessing the vehicle a ten (10) day letter should be mailed, giving all debtors (10) days to redeem the vehicle.
- j. Once the vehicle has been repossessed the member must pay off the balance of the loan to get the vehicle. There may be rare exceptions to this with management approval.
- k. When selling the vehicle, we must keep in mind that our intent is to reduce our losses and receive the greatest dollar return possible. We may use the Auto Auction to sell vehicles, we may sell by closed bids or open sale. Individual decisions may be made depending on the vehicle, its condition, and salability.
- l. Appropriate credit bureaus should be notified of the repossession action.
- m. Inform the credit union staff of the detail of the vehicle. We are not allowed to reveal the name of the debtor, however,
- n. After selling the vehicle a 10-day "after sale" notice must be sent to all debtors.
- o. When proceeds from the sale are applied, the loan must be adjusted so that it is not showing as paid ahead. By going to the ULN screen on the computer, the next due date must be changed to reflect the actual delinquent date.
- p. Normal collections efforts may resume when the 10-day after sale notice expires. If the debtor will not pay, the account should be recommended for charge-off, the member expelled, and the account placed for collection with an attorney or collection agency.

