

In my previous post I discussed the issue of being able to keep your [car that you own outright](#) in the event that you file for bankruptcy. In this article I will discuss what happens if you are still making payments on your car and are considering filing for bankruptcy.

The main question is: Can you keep your car that you are making payments on if you file for bankruptcy? The short answer is yes. As long as you make your monthly payments on time, 99% of the time you will be able to keep your car. If you are a strong believer in probabilities you can pretty much stop reading now.

But, if you would like to know what I mean by 99% of the time, keep reading. When you file for chapter 7 bankruptcy, you basically have two options when it comes to a car that you are still making payments on; you can surrender the car or reaffirm the debt. Option one, surrendering the car, pretty much speaks for itself. You can just turn in your car, cease making payments, and go on about your business like nothing happened. Option two, reaffirming the debt, is a little trickier. There is a third option, redeeming the debt, but that is rarely utilized.

When you file for chapter 7, most of your debts are dischargeable. Dischargeable is a fancy word that basically means “wiped out” or to put it a more accurately, you are relieved of your personal obligation on the loan. Following that line of thought, the car loan that you took out before filing for chapter 7 bankruptcy becomes a dischargeable debt. But the question still remains, what about the car? Does the fact that you filed for bankruptcy automatically give the car lender the right to repossess your car? According to most car lenders, the answer is yes. Even if you filed for bankruptcy and are making payments on time following your bankruptcy case, the mere fact that you filed for bankruptcy, according to the car lenders, gives them the right to repossess the car. I will spare you the legal mambo jumbo for how the car lenders came to this conclusion, but in a nutshell, they claim that filing for bankruptcy relieves you of the loan on your car, but the car itself, their collateral, is a whole different story. As a result, many car lenders will send you a reaffirmation agreement and assert that if you fail to sign this agreement, they have the right to repossess your car after your bankruptcy case concludes.

And what is a reaffirmation agreement? It is a document that basically asks you to once again become personally liable for the loan. As a reward for signing the reaffirmation agreement, the law states that the car lenders are precluded from repossessing your car after your bankruptcy case concludes as long as you are making payments on time. The signed reaffirmation agreement provides you with 100% assurance that the bank will not repossess your car as a result of you filing for chapter 7 bankruptcy. Sounds like a sweetheart deal, right? Wrong!

If for some unimaginable reason you fall on hard times one year after your bankruptcy case concludes and you can no longer afford to make your car payments, the car lender now not only has the right to repossess your car, but can also sue you on the balance still owed on the car loan. And that is the huge drawback. Conversely, if you do not sign the reaffirmation agreement, and at some point after your bankruptcy case concludes you are no longer able to make the monthly payments, the bank can repossess your car, but (strong emphasis on the “but”) they will not be able to sue you on the balance of the loan. They will not be able to bring a deficiency lawsuit against you. The signing of the reaffirmation agreement robs you of this critical piece of “insurance.”

And what do most bankruptcy attorneys tell their clients to do with the reaffirmation agreement? Don't sign the agreement! If you continue making payments on time, you have nothing to worry about. The bank does not want their car back. They want you to continue making every one of your car payments on time so they can get their hands on thousands of dollars of free money (more commonly referred to as interest). According to most bankruptcy attorneys, the reaffirmation agreement is a bluff. So long as you continue making your car payments on time, the lenders will not repossess your car.

Well, that is all fine and dandy, and 99% of the time that will turn out to be absolutely true. As long as you continue making your payments they will not repossess your car. But how do you avoid becoming that 1% statistic? Read my next article to find out how.