

How to Keep Your Car and Still File For Bankruptcy

When you file for bankruptcy, you will be listing all of your assets, including any vehicle you own. If you still owe money on your car, you will need to tell the court whether you intend to keep the car and reaffirm the debt or whether you will give up the car. Most people here in Los Angeles, need a car to get back and forth to work and so would want to keep the car and **reaffirm the debt**. But [what is a reaffirmation agreement and what does it do?](#)

A reaffirmation agreement is made between you and the lender of your vehicle. Essentially, a reaffirmation agreement tells the lender that you promise to be liable for the debt outside of the bankruptcy. If anything happens to you later; i.e., job loss, illness, etc., you will remain liable for that debt. The agreement takes that debt out of the protection of the bankruptcy and keeps you on the hook after your bankruptcy is discharged, even if you can't afford that debt later. The reaffirmation agreement gives the creditor the same legal right as if you did not file a bankruptcy on that debt.

It used to be that if you just kept making the payments and stayed current on the car loan, insurance and registration, you could simply keep it in the bankruptcy and keep the car. Unfortunately, the Ninth Circuit recently eliminated what was known as the "[Ride Thru](#)," which eliminated one of the most fundamental benefits to bankruptcy debtors.

Here's the good news. Even after you sign the reaffirmation agreement with the lender, the lender must file it with the bankruptcy court and a hearing will be set on the matter. The reaffirmation agreement does not become legally binding against you until it is approved by the judge.

If the judge approves the reaffirmation agreement and you miss a loan payment in the future, the lender can:

1. Repossess the car;
2. Sell the car at auction; and
3. Sue you for the money you still owe ("a deficiency balance")

At the hearing, the judge will use the "**In the best interest of the debtor**" test to determine if you can afford the debt. Don't despair if the judge denies your reaffirmation agreement. In fact, a denial may be beneficial to you because then the loan remains under the protection of your bankruptcy case and you'll likely get to keep the car.

If your case was filed in Los Angeles, the [Public Counsel Law Center](#) provides volunteer attorneys, like myself, who will answer any questions you may have before your hearing. Public Counsel provides this service through their [Debtor Assistance Project & Consumer Law Project](#). If you have a reaffirmation hearing date, please read Public Counsel's [information packet](#) before your hearing