

COMMENT

Fight back against car repossessions surge

DELAWARE VOICE
ERIC M. DOROSHOW

Tough financial times continue for many consumers who have car loans in Delaware. This problem is reflected in a recent report of the Federal Reserve Bank of New York and a recent article in the New York Times, which noted that nationally many consumers are falling further and further behind on their car loans. In Delaware, I have seen the same thing happening.

Why?

Car loan rates are very high because there is virtually no regulation in Delaware of the interest rates chargeable on car loans. As a result, some banks and private equity firms searching for high yields have funded a surge in money available car loans, but at sky-high rates. For instance, I have personally

seen many consumers with modest incomes saddled with car loans interest rates over 20 percent, resulting in car payments as much as \$450 a month.

Adding to the problem is the fact that the income of many Delaware families declined during the Great Recession, and their incomes have not yet fully recovered. Skyrocketing health insurance premiums, deductibles, very high mortgage payments, high credit card payments and insurance co-pays have made things even worse.

When a consumer does not make car payments, the car can be repossessed without notice or court order. The vehicle is then sold and the consumer is often sued for the difference between what the car sells for (often thousands of dollars less than its true value) and the loan payoff on the car. Typically, a local lawyer is then retained and sues the consumer for thousands, sometimes tens of thousands of dollars. The con-

sumer's wages are often attached for up to 15 percent of their net pay to satisfy this debt. Worse, some consumers lose their jobs because they have no way to get to work after a car repossession.

As an attorney in private practice for almost 40 years, I have met with many families up and down the state facing car repossession. I've seen the stress, anguish, and fear of Delaware consumers and their families.

Fortunately, Chapter 13 of The Bankruptcy Law provides a perfectly legal way for many consumers to stop car repossessions. Upon the filing of a petition, an automatic stay goes into effect, which means no further collection actions can be pursued by the creditors. Cars that have been repossessed will have to be returned. As part of a Chapter 13 plan payment, the car loans themselves can be significantly reduced. In many cases, interest rates can be slashed, the payments them-

selves can be significantly reduced, and car loan payment arrears knocked out. Wage attachments will stop almost immediately.

There are other real-world advantages of this powerful consumer weapon called Chapter 13. Mortgage arrears can be brought current, taxes can be paid, and in many cases credit cards and personal loans discharged.

Chapter 13 Wage Earner Plans provide a real and powerful way for Delaware consumer to fight back, but they can be complicated. Time is of the essence here: Often the sooner the petition is filed, the better the chances of ultimate success. My advice is very simple: Consumers facing car repossessions need to speak to an attorney familiar with the consumer bankruptcy law as soon as possible.

You can fight back, but you have to know your rights first.

Eric M. Doroshow is a practicing attorney in Delaware.

