

## **Legal Services Corporation of Delaware, Inc.**

A non-profit law firm and community education organization assisting low-income families in Delaware.

[www.lscd.com](http://www.lscd.com)

---

### **Vehicle Repossession: Selling the Car** <sup>[1]</sup>

#### **Was the notice of sale proper?**

Although notice is not required prior to the repossession, the creditor must give you proper notice before selling the vehicle or otherwise disposing of the vehicle. Notice for private sale of the vehicle is slightly different than notice for a public sale. The Delaware Commercial Code states that notice is sufficient if it (1) describes the debtor and the secured creditor; (2) describes the vehicle being repossessed; (3) states the method of sale or disposition; (4) states that the debtor is entitled to an accounting of the amount you owe; (5) states the date, time and place of a public sale or states that the vehicle will be sold at a private sale sometime after a certain date; (6) states that the debtor is liable for any deficiency; (7) provides a telephone number to call so that the debtor may redeem the vehicle; and (8) provides a telephone number or mailing address so that the debtor may request more information about the sale. One example of a creditor who failed to meet reasonable notice requirements is where the creditor sent notice to debtors at the wrong street address, a former residence, and sent notice to their current address with the wrong zip code.

#### **Was the disposition of sale proper?**

Every aspect of selling or disposing of the vehicle must be commercially reasonable, including the method, manner, time, place and terms. Commercial reasonableness includes determining whether there was an improper delay in the date of the sale. Sales of repossessed vehicles will be set aside only if the sale price is so low as to shock the conscience of the court. In general, the standard has been met where the sale price represented 50% of the fair market value.

---

Printed: May 27, 2022

<http://www.lscd.com/node/402/vehicle-repossession-selling-car>

©Legal Services Corporation of Delaware, Inc.