

## **60 Second Guide to Repossession and Foreclosure**

If you are facing foreclosure or repossession then you need immediate assistance. Repossession is more serious than foreclosure in terms of the speed at which the collection activity can take place.

Foreclosure, and Ohio, is a rather long process. Foreclosure in Ohio takes a minimum of 2 to 3 months to a maximum of over one year.

Repossession sometimes takes about one minute in the middle of the night.

### **Foreclosure**

Foreclosure in Ohio starts with a lawsuit. You must be sued in order to be foreclosed upon. The process begins when you get papers from the clerk of courts. You may receive them several ways, and more than once. They come by, certified mail, delivery by the sheriff, and sometimes by a private individual hired to hand the papers to you. When you read them, you will see that you have 28 days to file an answer. The purpose of filing an answer is for you to dispute or disagree with the mortgage company's assertion that you are late in your payments. Typically, people do not file answers to foreclosures because most of the time they are behind in their payments.

Some courts have foreclosure mediation offices that you can call in order to request assistance in working out an agreement to stop the foreclosure with the creditor. Creditors not required in all cases to mediate foreclosures and most of the time they continue the foreclosure even if you are discussing mediation.

Today, many people are attempting to obtain mortgage modifications. In fact, many of the people that we see are in the process of requesting a mortgage modification at the time they get their foreclosure papers. Unfortunately, being in a mortgage modification does not automatically stop the foreclosure. And, worse, sometimes

consumers are told that the mortgage modification process stops at foreclosure when in truth it does not.

## **Repossession**

Repossessions occur in the middle of the night and you have little or no advance warning. If you are even a day late, technically, you are in danger of repossession. But this doesn't happen normally. Depending on your payment record, repossession is normally only a risk when you get to be about 60 days late. If you had a relatively good payment record then the creditors will generally give you about that much time. Of course, this is no guarantee. When you get beyond 60 days, however, the danger of repossession is very real.

Once the creditor has hired the repo man, it's almost impossible to talk them out of it without paying all of the past due payments and sometimes making an additional payment on top of that. Often this is difficult or impossible to do. A favorite trick of some creditors is to tell the consumer that they will take a partial payment to stop the repossession. Once payment is received, if the account is not paid in full, repossession happens anyway.

If you are interested in stopping a foreclosure, the only sure way to do that, short of paying the account in full, is to file bankruptcy. Depending on your goal, whether it is to keep the car, or only stop the repossession temporarily, a chapter 13 or chapter 7 is an option for you to consider.

If the only debt you have is the debt on the car that is in danger of repossession, it may not make sense to file bankruptcy. If you don't have any other debt other than the car and if the amount owed on the car's not that terribly great, you might be better off allowing the car to be repossessed and working with the creditor to get time to pay the balance.

On the other hand, if you have built up a lot of equity in the car, meaning that it's worth more than what you owe on it, filing bankruptcy would be a way to protect the equity that you have built up in the car and keep it from being lost unnecessarily in a

repossession sale which is sure to net much less than the car is actually worth.

If you are not sure if the bankruptcy option makes sense for you, just call our office and request telephone appointment. We can answer all your questions over the phone so that you can get some immediate information and decide whether a follow-up appointment with one of our attorneys make sense. There is never a charge for the advice.