

Comparing Reaffirmation with Redemption

<p>REAFFIRMATION</p> <p><i>Allows debtor to enter into a new contract with debtor's existing lender that survives the bankruptcy.</i></p>	<p>REDEMPTION</p> <p><i>Allows debtor to wipe out an existing loan by paying the value of the collateral in a lump sum, notwithstanding the amount actually owed.</i></p>
<p>PROS</p> <ul style="list-style-type: none"> • Debtor may be able to receive more favorable loan terms from lender (though this is rare). • Postpetition loan payments are reflected on debtor's credit score to help rebuild credit sooner. • Lender cannot repossess car as long as debtor abides by terms of contract (payments are current, vehicle is insured, etc.). 	<p>PROS</p> <ul style="list-style-type: none"> • If car is worth much less than the balance on the loan, debtor potentially saves thousands of dollars by paying only what the car is worth. • Redemption financing may be available if debtor cannot pay replacement value in one lump sum. • If debtor obtains redemption financing, payments will be reflected on debtor's credit score.
<p>CONS</p> <ul style="list-style-type: none"> • Most lenders will not alter the loan terms under a reaffirmation agreement. • Debtor risks owing a deficiency if lender repossesses vehicle due to nonpayment, since lender will sell the vehicle at an auction for much less than its private party value. • Lender may allow debtor to keep vehicle even without a reaffirmation agreement, as long as debtor remains current on payments. 	<p>CONS</p> <ul style="list-style-type: none"> • Only available for personal property; cannot be used for real property. • Unless debtor can obtain a redemption loan, he or she will have to pay the replacement value in one lump sum. • Interest rates for redemption loans are often very high (20-24%); however, <ul style="list-style-type: none"> ○ Some redemption lenders will refinance the car at a lower interest rate after a time. ○ Lender may reduce interest rate after a certain number of on-time payments. ○ If vehicle is substantially underwater, debtor may still end up paying less overall than through reaffirmation.
<p>REAFFIRMATION may be a better option if...</p> <ul style="list-style-type: none"> • Loan balance and vehicle value are similar, or there is equity in the car. • Lender is willing to modify the terms of the loan (interest rate, principal balance, monthly payments, and/or loan term). • Current loan terms are favorable to debtor (low interest rate, low payment, etc.). • Debtor is more concerned about rebuilding credit through reaffirmation than the possibility of owing a deficiency if vehicle is repossessed. • Lender is a credit union and has cross-collateralized vehicle loan and another debt, and lender agrees to remove the cross-collateralization clause in the reaffirmation agreement. 	<p>REDEMPTION may be a better option if...</p> <ul style="list-style-type: none"> • Vehicle is substantially underwater. • Debtor can afford to pay the market value of vehicle in one lump sum within 30 days after first schedule 341 (a) hearing. • Debtor is able to obtain a redemption loan that lowers the monthly payment. <p style="text-align: center;">Depending on debtor</p>

What Is Redemption?

- Bankruptcy law allows a Chapter 7 debtor to pay off a secured loan on personal property (most commonly a vehicle) for the current retail value of the item—no matter how much is still owed on the loan—through a process called redemption.
- If you have a secured debt on personal property and plan to file (or have already filed) for Chapter 7 bankruptcy, redemption is an option that could lower your monthly payments and/or even allow you to buy the car outright for much less than you owe.

Example: Linda plans to file for Chapter 7 bankruptcy. She owes \$10,000 on her car loan, but the retail value of her car is only \$4,000. She wants to keep her car, but is concerned because she owes \$6,000 more than the car is worth.

In a Chapter 7 bankruptcy, Linda could do a redemption of the car. If approved by the Bankruptcy Court, Linda would pay her lender a lump sum of \$4,000 (the car's current retail value), and her lender would be required to give her title to the car. The remaining \$6,000 balance would be eliminated when she receives a discharge in her case.

- You can also redeem other types of personal property subject to a loan, as long as the item is intended primarily for personal, family, or household use. This could include furniture, tools, appliances, electronics, etc.

Is Redemption a Good Option for Me?

- Redemption is only for **personal** property. You cannot use redemption for your house or other real estate.
- Redemption is usually best for people who owe significantly more money on personal property than it is worth.
- Your original lender must be paid the item's current retail value in a **single lump-sum payment** according to the Court's order (which can be within 30 days after Court approval).
- **Cosigners:** Even if you successfully redeem an item, a cosigner can still be sued for the unpaid balance discharged in your bankruptcy.

What If I Can't Afford a Lump-Sum Payment?

- If you cannot pay the item's value in a lump sum, you may be able to get a loan from a company that specializes in redemption financing.
 - Redemption lenders can give you an estimated monthly payment with a redemption loan, which you can compare to your current monthly payment.
 - Note: Interest rates on these types of loans can be very high (often 18-24%) . It is important to compare your current monthly payment with the estimated monthly payment under the loan.
- Other options include getting a personal loan from family or friends.

How Do I Determine the Redemption Value?

- Bankruptcy law states that the correct value to use for personal property is the retail value— which is the “price a retail merchant would charge.”
- If the item is a vehicle, you can use Edmunds (www.edmunds.com) to determine the retail value. From the main page, click on “Research,” then “Car Valuation.”
- Make sure to look up the **retail value** of your vehicle, not the trade-in value. Attach a printout of the valuation as an exhibit to your motion to redeem so that the Court can consider this evidence.

What Steps Do I Take to Redeem an Item?

- You may first need to file or amend certain bankruptcy forms:
 - In **Schedule A/B**, list the retail value of the personal item.
 - In **Schedule C**, exempt the retail value of the personal item.
 - In the **Statement of Intention**, check the box for “Retain the property and redeem it.”
- To redeem a car or other personal property, you must file a motion with the Bankruptcy Court, and the Court must approve the motion.
 - A sample redemption motion is attached.
 - You must also file a notice form when you file the motion.

- After filing the motion, you must file a declaration and lodge a proposed order.⁶
- The Court must approve the motion for this process to be complete and legally enforceable. Just filing a motion to redeem is not enough.
- If the Court grants your redemption motion, the lender must be paid the redemption value in a **single lump-sum payment** by the deadline indicated in the Court's order (which can be within 30 days).
- The lender must remove its lien after receiving the redemption value.