



During the coronavirus emergency, cars will play a vital role in containing the spread of the virus and facilitating an economic recovery for families and states. A family car can allow for social distancing, drive-through testing, and shopping for essential items without taking public transportation. After the initial health crisis, a car will once again be vital in many communities for access to employment, day care, schooling, medical care, and other essential services.

**Yet cars can be repossessed immediately after one missed payment with little to no oversight in most states.** Late fees can pile up for buyers who miss payments because of unemployment. And the sudden reduction in car usage may mean that important problems with cars that might be covered by a warranty or service contract may go unnoticed. While individual creditors, dealers, and manufacturers may offer relief to consumers in distress, they should make their criteria public to avoid the [possibility of discrimination](#).

## What States Can Do to Assist Consumers

To help consumers experiencing financial distress, states should immediately:

- **Place a moratorium on repossessions and enforcement efforts during the crisis,**
- **Prohibit late fees and interest on unpaid interest and offer forbearances for those unable to pay,**
- **Institute tolling to extend the duration of warranties and of service contracts, and**
- **Have clear and consistent requirements for all auto entities**

### Place a Moratorium on Repossessions and Enforcement Efforts During the Crisis

Auto finance creditors should be prohibited from taking any action, or threatening to take any action, to collect payment. This should include physical and electronic repossession. Cars are important in the best of times and are vital during the pandemic. Repossessions would force those with access to use public transportation even if it might mean that they spread the virus. It would also remove the option of drive-through testing.

It may not even be possible for secured creditors to conduct a commercially reasonable sale of a repossessed car during the covid-19 crisis. Social distancing, business closure orders, and extreme economic uncertainty make it unlikely that a repossession sale will attract enough buyers to ensure a fair sales price.

While a moratorium on repossession could clearly be enacted legislatively it may also be done by executive order or through regulation in some states. In states with existing orders to stop all non-essential business, attempts by repo agents to take consumers' cars during this emergency in violation of public order may breach the peace. Attorneys General should raise this issue with auto creditors and vigilantly pursue violations.

### Prohibit Late Fees and Interest on Unpaid Interest and Offer Forbearances for Those Unable to Pay

During the crisis, there should be no late fees, interest on interest that is not paid when a consumer misses a payment, or acceleration of debt. After the crisis is over, those who were unable to make payments should be allowed to add missed payments to the end of the credit

term, and offered modifications and other loss mitigation options. Preserving car ownership will be essential to revive the economy as the nation moves forward.

### **Extend the Duration of Warranties and Service Contracts**

During this difficult time when people are being advised not to go out, work is often shut down, and many retail locations are closed, and many consumers will not be driving or will be driving less. They likely will not discover problems with vehicles that they otherwise would. Even if they do find problems that would be covered by a warranty or service contract, they may find it difficult to seek repairs under current circumstances. Time limitations for these coverages should be tolled, extending the time of coverage for a period equal to that of the crisis.

### **Require Clear and Consistent Requirements for all Auto Entities**

Emergency requirements should be the same for all auto creditors doing business in the state. Thousands of entities from banks and credit unions to subprime financiers and Buy Here Pay Here dealers provide auto financing. Their responsibilities and consumers' options must be transparent and simple. Consumers should not have to determine how the bank holding their debt is chartered or who regulates the finance company they pay for their car in order to determine for what relief they are eligible.

The need for clarity and transparency applies to the responses of individual creditors as well. If they offer relief options prior to, or in addition to, state requirements, they should provide clear and complete information about the exact options they offer in a transparent and public manner. Creditors should state exactly what relief is offered and the specific eligibility requirements for that relief. This is especially important because [discretion leads to discrimination in auto finance](#). Auto finance entities, many of whom have a documented tendency to participate in discrimination, should not decide on a case-by-case basis what relief to offer consumers. State AGs should urge creditors to provide clear and complete information and then use their authority under the Equal Credit Opportunity Act to ensure that all consumers are being offered the same options.

**Questions?** Contact National Consumer Law Center attorney John W. Van Alst at [jvanalst@nclc.org](mailto:jvanalst@nclc.org).

[A number of states have begun to take these and other steps to protect consumers in car transactions.](#)

### **Free Covid-19 Online Resources**

NCLC has created a [webpage](#) dedicated to **Covid-19 and Consumer Protections**. The page is continually updated to help families to navigate their finances during these turbulent times and for advocates to keep track of the latest consumer protection policy measures and pending legislation. As part of NCLC's effort to assist consumers and advocates, **we have made the digital edition of *Surviving Debt: Expert Advice For Getting Out of Financial Trouble* free to all** during this unprecedented crisis. Access *Surviving Debt* for free [here](#). The print version is also available to purchase with bulk discounts at NCLC's Digital Library [bookstore](#).