



State of Louisiana
LOUISIANA MOTOR VEHICLE COMMISSION

Kathleen Babineaux Blanco
Governor

Lessie A. House
Executive Director

January 10, 2004

BULLETIN #B-2005-01

TO: Motor Vehicle Sales Finance Licensees

RE: Act 191 of 2004 Legislative Session, "Self Help" Repossession

RE: Act 191 of 2004 Legislative Session, "Self-Help" Repossession

Act No. 191 of 2004 Legislative Session became effective on January 1, 2005. It permits Motor Vehicle Sales Finance licensees to repossess motor vehicles from debtors when they default on motor vehicle loans or leases as long as the requirements of the statute are met.

We have attached a copy of the law for your use. Another aid for your use in complying with the mandates of LSA-R.S. 6:966.1 can be found on our website, www.lmvc.state.la.us under the heading of "Self Help Notification".

THIS LAW PERMITS REPOSSESSIONS BY LICENSED REPOSSESSION AGENT ONLY. The Office of Financial Institutions website has a list of the licensed repossession agents for your use, www.ofi.state.la.us.

As a secured party you take possession of (repossess) a secured titled motor vehicle without complying with Act 191 of 2004 following the debtor's default **ONLY** if and when the debtor:

- A. Abandons the vehicle; or
- B. Voluntarily surrenders the vehicle to you;
- C. Agrees after or in contemplation of default to permit you to exercise consent self-help remedies.

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You may take possession of the vehicle wherever located without application of Act 191 of 2004 or judicial process following abandonment by the debtor.

Following the debtor's default you may wish to convince the debtor to voluntarily surrender the vehicle when it becomes apparent that he can no longer make the payments under his loan. **THIS CONSENT TO A VOLUNTARY SURRENDER MAY NOT BE OBTAINED IN ADVANCE PRIOR TO THE OCCURRENCE OF AN EVENT OF DEFAULT.** To do so is a violation of R.S. 10:9-609A(2) and may subject you to penalties under R.S. 10:9-625. This may also be an unfair trade practice and subject you to penalties under R. S. 51:1401 *et seq.* and the revocation of your license under the Motor Vehicle Sales Finance Act.

At the time the debtor voluntarily surrenders possession of the motor vehicle you should require the debtor to sign a voluntary surrender agreement.

When a debtor is in default you may attempt to obtain his agreement to permit you to take possession of the motor vehicle wherever located by consent. His agreement to this effect may be obtained under a default and forbearance agreement. If the debtor agrees, and continues to be in default, or if there is a subsequent default, you may take possession of the motor vehicle wherever located provided you can do so without a breach of the peace.

SHOULD YOUR BUSINESS INCLUDE "RENT-TO-OWN" TRANSACTIONS YOU MAY TAKE POSSESSION (REPOSSESS) OF A MOTOR VEHICLE ONLY UNDER THE PROVISIONS OF THE LOUISIANA LEASE OF MOVABLES ACT (R.S. 9:3301 *et seq.*). Violations of the self-help repossession prohibitions of the Lease of Movable Act may result in exposure to damages for illegal trespass and wrongful repossession and constitute an unfair trade practice.

The foregoing is general information and should not be considered legal advice. In determining your rights of repossession of collateral you must seek legal advice from your own attorney.