



## RETAIN AND PAY VS. REAFFIRMATION

### RETAIN AND PAY (*No Reaffirmation Agreement*)

---

#### PROS

The debtor's personal liability on the loan is discharged. If at any point the debtor is unable to pay, the creditor can repossess the vehicle (or other property) but cannot pursue the debtor for any deficiency.

#### CONS

The creditor will likely not report timely payments on the account to the credit reporting agencies. A debtor may not be able to use their timely payments to rehabilitate credit post-bankruptcy.

The creditor may not send billing statements. This can be frustrating for debtors as they must independently track all payments.

Debtors may be denied online access to their account. Payments may have to be made by other methods – our recommendation is that debtors use their own bank account's "bill pay" service so they can track and document all payments more easily than money orders or checks.

Comakers (cosigners) may also be denied access to online services if the debt is not reaffirmed, even though the comaker (cosigner) did not file bankruptcy.

### REAFFIRMING

---

#### PROS

The debtor's timely payments will be reported positively on their credit report, which will help with credit repair.

The debtor will receive monthly billing statements and can keep track of their payments that way.

The debtor should be able to use the lender's online payment portal.

The debtor may be able to negotiate better terms: lower interest rate, lower payment, lower loan balance to the market value of the vehicle/other property (essentially a cram down).

#### CONS

If the debtor becomes unable to pay the loan and the collateral is repossessed, the creditor can pursue the debtor personally for any deficiency because the debt was not discharged. When the debtor has a high-interest, high-balance loan, this is particularly ill-advised.

The debtor may not be able to file a bankruptcy on the deficiency depending on how recent the previous Chapter 7 was filed.

Reaffirmation Remorse: If the debtor changes their mind after reaffirming they have a short time to rescind this agreement—before discharge or within sixty days after the agreement is filed with the court, whichever is later. 11 USC §524(c)(4).